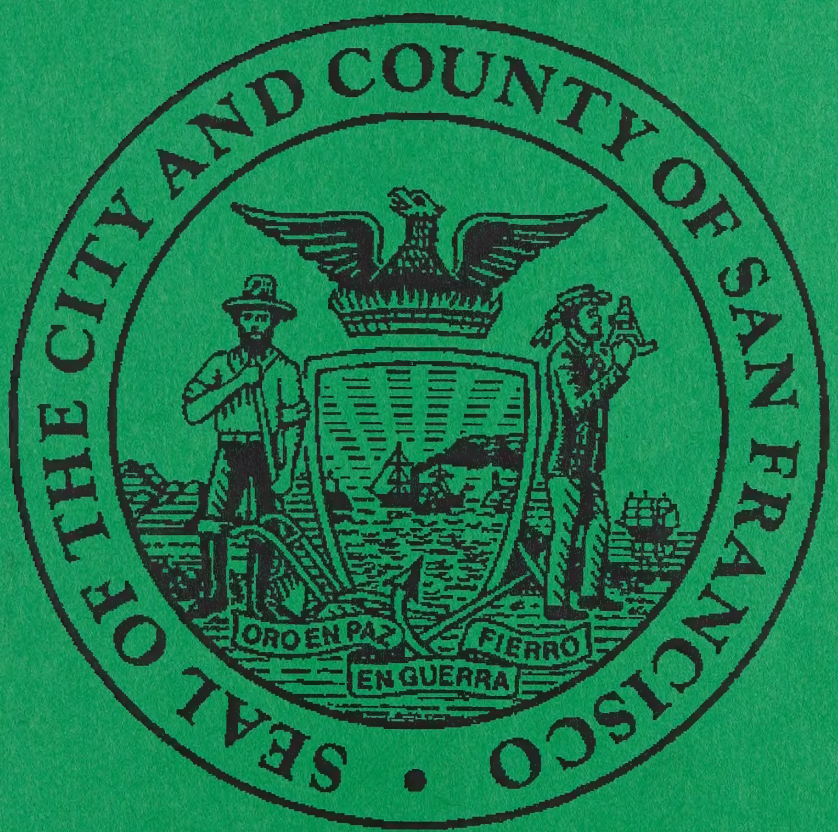
99 01435

AN OVERVIEW OF THE LAWS GOVERNING THE CONDUCT OF PUBLIC OFFICIALS

INSTITUTE OF GOVERNMENTAL STUDIES LIBRARY
MAY 19 1999
UNIVERSITY OF CALIFORNIA

March 1, 1999

OFFICE OF THE CITY ATTORNEY
LOUISE H. RENNE, CITY ATTORNEY



99 01435

TABLE OF CONTENTS

INTRODUCTION 1

PART ONE: AN OVERVIEW OF CONFLICTS OF INTEREST, FINANCIAL DISCLOSURE AND OTHER GOVERNMENTAL ETHICS LAWS 2

TABLE OF CONTENTS FOR PART ONE 3

I. CONFLICTS OF INTEREST 6

II. OTHER PROHIBITIONS 18

III. RESTRICTIONS ON GIFTS, HONORARIA, TRAVEL AND LOANS 21

IV. GOVERNMENT CODE SECTION 84308: SOLICITATION AND RECEIPT OF CONTRIBUTIONS BY MEMBERS OF APPOINTED BOARDS AND COMMISSIONS 34

V. MASS MAILINGS AT PUBLIC EXPENSE 39

VI. THE SAN FRANCISCO ETHICS COMMISSION 42

PART TWO: AN OVERVIEW OF PUBLIC RECORDS AND PUBLIC MEETINGS LAWS 43

TABLE OF CONTENTS FOR PART TWO 44

I. INTRODUCTION 48

II. PUBLIC RECORDS AND INFORMATION LAWS 49

III. RECORDS RETENTION AND DESTRUCTION LAWS 56

IV. PUBLIC MEETING LAWS 58

V. SAN FRANCISCO CHARTER SECTION 16.112: REQUIRED NOTICE FOR CERTAIN CITY ACTIONS 71

VI. CITIZENS' RIGHT-TO-KNOW ACT OF 1988: NOTICE BEFORE APPROVING CITY PROJECTS (SAN FRANCISCO ADMINISTRATIVE CODE CHAPTER 79) 72

VII. AMERICANS WITH DISABILITIES ACT NOTICE PROVISION 73

VIII. APPLICATION OF PUBLIC MEETINGS AND PUBLIC RECORDS LAWS TO NON-PROFIT ORGANIZATIONS 74

APPENDIX: ETHICS, PUBLIC RECORDS AND PUBLIC MEETING LAWS 78

GOVERNMENT CODE SECTION 1090 et seq. 79

THE POLITICAL REFORM ACT
(GOVERNMENT CODE SECTION 87100 et seq.) 83

SAN FRANCISCO CHARTER APPENDIX C, SECTION C8.105 90

COMPENSATED ADVOCACY ORDINANCE 93

CONTRACTS WITH MEMBERS OF BOARDS AND COMMISSIONS
(SAN FRANCISCO ADMINISTRATIVE CODE SECTION 16.980) 94

THE AMERICANS WITH DISABILITY ACT NOTICE PROVISION
(25 C.F.R. § 35.106) 96

THE PUBLIC RECORDS ACT
(GOVERNMENT CODE SECTIONS 6250 et seq.) 97

THE BROWN ACT
(GOVERNMENT CODE SECTIONS 54950 et seq.) 136

SAN FRANCISCO CHARTER SECTIONS 4.100-4.104 158

SAN FRANCISCO CHARTER SECTION 16.112:
REQUIRED NOTICE FOR CERTAIN CITY ACTIONS 160

THE NON-PROFIT PUBLIC ACCESS ORDINANCE
(SAN FRANCISCO ADMINISTRATIVE CODE CHAPTER 12L) 161

THE SUNSHINE ORDINANCE
(SAN FRANCISCO ADMINISTRATIVE CODE CHAPTER 67) 165

THE CITIZENS' RIGHT-TO-KNOW ACT OF 1988:
NOTICE BEFORE APPROVING CITY PROJECTS
(SAN FRANCISCO ADMINISTRATIVE CODE CHAPTER 79) 184

INTRODUCTION

This guide is designed to provide City officials with an overview of the principal laws regulating their conduct as public officials. The guide is intended to be a reference for department personnel, commissioners, commission staff members and other public officials. This guide replaces our prior edition entitled, "An Overview of the Laws Governing the Conduct of Public Officials," dated March 23, 1998.

While this guide provides a general overview of the laws governing the conduct of City officials, it can not anticipate every situation or question that may arise. In addition, the laws described in this guide change from time to time. Consulting this pamphlet is no substitute for consulting an attorney about the application of these laws to specific conduct. All City officials are strongly encouraged to contact the Office of the City Attorney when they have questions about a proposed course of conduct.

LOUISE H. RENNE
SAN FRANCISCO CITY ATTTORNEY

PART ONE:

AN OVERVIEW OF CONFLICTS OF INTEREST, FINANCIAL DISCLOSURE, AND OTHER GOVERNMENTAL ETHICS LAWS

PART ONE: TABLE OF CONTENTS

AN OVERVIEW OF CONFLICTS OF INTEREST, FINANCIAL DISCLOSURE, AND OTHER GOVERNMENTAL ETHICS LAWS

	Page
I. CONFLICTS OF INTEREST	6
A. Conflicts of Interest Under the Political Reform Act	6
1. The Basic Prohibition	6
a. What types of actions are covered by the prohibition	6
i. Making a decision	6
ii. Participating in making a decision	6
iii. Influencing a decision	7
b. The economic interests covered	7
i. Investments	7
ii. Property	7
iii. Source of income or gifts	7
iv. Management positions	7
v. Income, assets, or expenses	8
c. When does a decision materially affect an economic interest?	8
i. Decisions involving an economic interest in a Business entity	8
aa. Directly involved	8
bb. Indirectly involved	9
ii. Decisions involving an economic interest in real property	10
aa. Directly involved	10
bb. Indirectly involved	11
iii. Decisions involving an economic interest in persons who are sources of income or gifts	
aa. Directly involved	11
bb. Indirectly involved	11
•Business entity	
•Nonprofit entity	
•Individuals	
•Nexus	
iv. Decisions involving personal financial effect	13
d. What is reasonably foreseeable?	13
e. Is the effect of the decision on the official's economic interest distinguishable from the effect on the public generally?	13
f. Is the public official's participation legally required?	14
g. What are the penalties?	14

h. What should an official with a conflict of interest do? 14

2. Financial Disclosure Under the Political Reform Act 14

a. Who is required to file statements of economic interests? 14

b. What must be disclosed on statements of economic interests? 15

c. When must statements of economic interests be filed? 15

d. Where are statements of economic interests filed? 15

e. What are the consequences of not filing the forms or not disclosing required information? 15

f. May I amend my statement of economic interests? 16

g. Who has access to statements of economic interests? 16

B. Conflicts of Interest Under Government Code Section 1090 16

1. What is a financial interest? 16

2. What constitutes making a contract? 16

3. Remote interests 17

4. Noninterests 17

C. Conflicts of Interest Under the Common Law` 17

D. Conflicts of Interest Under Charter Section C8.105(a) 17

II. OTHER PROHIBITIONS 18

A. Prohibition on Representing Private Parties Before City Boards And Commissions [Compensated Advocacy] 18

B. Post Employment Restrictions 18

C. Incompatibility 19

1. Incompatible activities 19

2. Dual officeholding for compensation 19

3. Incompatible offices 19

D. Prohibition on Contracting with the City 19

E. Prohibition on Disclosing Confidential Information 19

F. Prohibition on Compensation for City Services 20

G. Prohibition on Voting on Own Employment 20

H. Travel Discounts 20

I. Political Activity 20

J. Miscellaneous 20

III. RESTRICTIONS ON GIFTS, HONORARIA, TRAVEL, AND LOANS 21

IV. GOVERNMENT CODE SECTION 84308: SOLICITATION AND RECEIPT OF CONTRIBUTIONS BY MEMBERS OF APPOINTED BOARDS AND COMMISSIONS 34

V. MASS MAILINGS AT PUBLIC EXPENSE 39

VI. THE SAN FRANCISCO ETHICS COMMISSION 42

OVERVIEW OF CONFLICTS OF INTEREST, FINANCIAL DISCLOSURE, AND OTHER GOVERNMENTAL ETHICS LAWS

I. CONFLICTS OF INTEREST

City officials are subject to strict conflict of interest laws. Under Section 15.103 of the Charter,

> All officers and employees of the City and County shall be subject to all state laws and City ordinances proscribing conflicts of interest and incompatible activities as well as the provisions of [Charter] Section C8.105. Any violation of such laws shall be official misconduct and shall be a basis for discipline and/or removal, in addition to any other penalties prescribed by law.

There are several state and local laws that prohibit City officials from participating in decisions in which they have a financial interest. In most cases, these laws provide that conflicts may be avoided if the official discloses his or her interest and abstains from participating in or seeking to influence a decision in which the official has a financial interest. In some cases, however, the official must choose between maintaining the financial interest and continuing to serve as a public official.

A. Conflicts Of Interest Under The Political Reform Act

1. The Basic Prohibition

California's Political Reform Act prohibits public officials from making, participating in making, or in any way seeking to influence, governmental decisions in which they have a financial interest. Gov't Code § 87100. For purposes of this law, the term public official means a "member, officer, employee, or consultant" of a local government agency. The term "member" includes any member of a board or commission with decisionmaking authority.

Under the Political Reform Act, an official has a financial interest in a decision if it is *reasonably foreseeable* that the decision will have a *material* financial effect, *different from the effect on the public generally*, on the public official's economic interests. Gov't Code § 87103. When a public official has a conflict under the Political Reform Act, the official must disclose the existence of the conflict and abstain from participating in the decision.

a. What types of actions are covered by the prohibition?

i. Making a decision. A public official makes a decision when he or she votes, appoints a person to a position, obligates his or her agency to a course of action, or enters into a contract for the agency. Deciding not to act, unless based on disqualification under the Political Reform Act, also constitutes making a decision.

ii. Participating in making a decision. Participating in making a decision includes negotiating, providing advice by way of research, investigation, or preparation of reports or analyses for

the decisionmaker, if these functions are performed without significant intervening substantive review.

Participating in making a decision does not include ministerial or clerical actions, appearing before an agency to represent the official's personal interests, or actions by a public official with regard to his or her compensation for services or the terms or conditions of his or her employment or contract.

iii. Influencing a decision. Influencing a decision includes contacting, appearing before, or otherwise attempting to influence any member, officer, employee or consultant of the official's agency, or an agency appointed by or subject to the budgetary control of the official's agency. Influencing a decision before another agency that is not subject to the control of the public official's agency, includes acting on behalf of, or as a representative of, the public official's agency in contacts with the other agency. Acting as a representative of the official's agency includes, for example, using official stationery.

b. The economic interests covered

The economic interests covered by the Political Reform Act are the following:

i. Investments. Any business entity in which the public official has a direct or indirect investment worth $1000 or more. An indirect investment means an investment owned by the spouse, dependent child, or agent of the public official, or by a business entity or trust in which the official (or the official's spouse, dependent child, or agent) owns a 10% or greater interest.

ii. Property. Any real property in which the public official has a direct or indirect interest worth $1000 or more. An indirect investment means an investment owned by the spouse, dependent child, or agent of the public official, or by a business entity or trust in which the official (or the official's spouse, dependent child, or agent) owns a 10% or greater interest.

iii. Source of income or gifts. Any source of income (other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status) aggregating $250 or more in value, or any source of gifts of $300 or more in value, provided to, received by, or promised to the public official within 12 months prior to the time the decision is made.

iv. Management positions. Any business entity in which the public official is a director, officer, partner, trustee, employee or holds any position of management.

v. Income, assets, or expenses. The income, assets, and expenses of the public official or the public official's immediate family. "Immediate family" means spouse or dependent children.

c. When does a decision materially affect an economic interest?

Under the Political Reform Act, a conflict exists only if the effect of a decision on the official's economic interests will be "material." Determining materiality usually requires estimating the dollar value of the effect of a decision on the official's economic interest. The Fair Political Practices Commission's regulations set forth specific standards for determining when a decision's effect on a particular type of economic interest is material. Application of those standards will turn in part on whether the official's economic interest is directly or indirectly involved in the decision.

Direct involvement. A decision directly involves a public official's economic interest if the economic interest is the *subject* of the decision. For example, if a public official is appealing the denial of a permit for her property, the public official's economic interest in the property is directly involved in the appeal. If a company in which an official has an interest of $1,000 or more is seeking a contract with the official's department, the official has a direct interest in decision's about the contract.

The law presumes that a public official's economic interest is materially affected if that interest is directly involved in the decision before the public official. The presumption can be overcome only if the public official can show that a decision will have *absolutely no* financial effect on the official's interest.

Indirect involvement. Any time a public official's economic interest is affected by a decision, but that interest is not the subject of the decision, the interest is said to be "indirectly" involved in the decision. For example, a vote on proposed legislation that would require a particular type of license for all city businesses, would *indirectly* affect a public official's economic interest in a restaurant in which she had invested more than $1,000. A decision about a permit for a building that is across the street from a public official's property *indirectly* affects the public official's economic interest in her property.

If a public official's economic interest is indirectly involved in a decision, materiality will depend upon the likely economic impact of the decision on the official's economic interest. The regulations contain detailed standards for determining whether a decision will have a material effect on a the particular type of economic interest indirectly involved in the decision.

i. Decisions involving an economic interest in a business entity

aa. <u>Directly involved.</u>

The effect of a decision is material if any business entity in which the official has a direct or indirect investment of $1,000 or more, or any business entity listed on the New York or American Stock Exchange or NASDAQ in which the official has a direct or indirect

investment of $10,000 or more, or any business entity in which the official is an officer, director, partner, trustee, employee, or holds any position of management is directly involved in a decision before the official's agency.

bb. Indirectly involved.

The effect of a decision is material if for any business entity in which an official has an economic interest the following standards (which vary with the size of the business), are met:

♦ For a Business Entity Listed on the New York or American Stock Exchange or that Meets the Standards for Fortune Magazine's List of 1000 Largest Corporations, the Decision Would Result in:

- An increase or decrease in gross revenues for a fiscal year of $250,000 or more ($1,000,000 or more for companies on Fortune Magazine's list of 1000 largest companies);
- Incurring or avoiding expenses for a fiscal year of $100,000 or more ($250,000 or more for companies listed on Fortune Magazine's list of 1000 largest companies);
- An increase or decrease in the value of assets or liabilities of $250,000 or more ($1,000,000 or more for companies listed on Fortune Magazine's list of 1000 largest companies).

♦ For a Business Entity Listed on NASDAQ or that Meets the Standards for Listing on the New York Stock Exchange, the Decision Would Result in:

- An increase or decrease in gross revenues for a fiscal year of $150,000 or more;
- Incurring or avoiding expenses for a fiscal year of $50,000 or more;
- An increase or decrease in the value of assets or liabilities of $150,000 or more.

♦ For a Business Entity Listed on the Pacific Stock Exchange or Listed on the Eligible Securities List Maintained by the California Department of Corporations or that Meets the Standards for Listing on NASDAQ, the Decision Would Result in:

- An increase or decrease in gross revenues for a fiscal year of $30,000 or more;
- Incurring or avoiding expenses for a fiscal year of $7,500 or more;
- An increase or decrease the value of assets or liabilities of $30,000 or more.

◆ For Any Business Entity that Does not Meet Any of the Above Standards, the Decision Would Result in:

- An increase or decrease in gross revenues for a fiscal year of $10,000 or more;
- Incurring or avoiding expenses for a fiscal year of $2,500 or more;
- An increase or decrease in the value of assets or liabilities of $10,000 or more.

ii. Decisions involving an economic interest in real property

aa. Directly involved.

Any reasonably foreseeable financial effect on real property in which a public official has an economic interest and which real property is directly involved in a decision before the official's agency is deemed material.

bb. Indirectly involved.

The effect of a decision is material as to real property (other than a leasehold) in which the public official has an economic interest if any of the following applies:

- The real property or any part of it is located within a 300 foot radius of the boundaries of the property that is the subject of the decision, unless the decision will have absolutely no financial effect upon the official's property;
- The decision involves the construction of or improvements to streets, water, sewer, storm drainage or similar facilities and the real property in which the official has an interest will receive new or substantially improved services;
- The real property in which the official has an interest is located more than 300 feet, but less than 2500 feet, from the boundaries of the property that is the subject of the decision and the decision will have a reasonably foreseeable financial effect of:

  ➡$10,000 on the market value of the property; or

  ➡will affect the rental values of the property by $1,000 or more per 12 month period.

The effect of a decision is *not* considered material if the official's property is located beyond 2500 feet from the boundaries of the property that is the subject of the decision, unless there are special circumstances showing that the decision will have an effect of:

➡$10,000 on the market value of the property; or

➡will affect the rental values of the property by $1,000 or more per 12 month period.

For decisions affecting leasehold interests in real property, the effect of a decision is material if any of the following applies:

- the decision will change the legally allowable use of the leased property and the lessee has a right to sublease the property;

- it is reasonably foreseeable that the lessee will change the actual use of the property as a result of the decision;

- it is reasonably foreseeable that the decision will result in a change in the actual use of property within 300 feet of the leased property and the changed use will

significantly enhance or significantly decrease the use or enjoyment of the leased property;

- the decision will increase or decrease the amount of rent for the leased property by $250 or 5 percent, whichever is greater during any 12-month period following the decision; or

- the decision will result in a change in the termination date of the lease.

iii. Decisions involving an economic interest in persons who are sources of income or gifts

aa. Directly involved.

Any reasonably foreseeable financial effect on a person who is the source of income or gifts to a public official and who is directly involved in a decision before the official's agency is deemed material.

bb. Indirectly involved.

For determining whether the effect of a decision is material as to a person who is a source of income and is indirectly involved in a decision, the following standards apply:

♦ Business Entity. If the source of income or gifts is a *business entity*, the materiality standards described above for business entities indirectly involved apply;

♦ Nonprofit Entity. If the source of income or gifts is a *nonprofit entity,* the following standards apply:

• For an entity with gross annual receipts of $400,000,000 or more, the effect of the decision will be any of the following:

➡ affect gross revenues for a fiscal year by $1,000,000 or more;

➡ affect expenses for a fiscal year by $250,000 or more;

➡ affect assets or liabilities by $1,000,000 or more.

• For an entity with gross annual receipts of between $100,000,000 and $400,000,000, the effect of the decision will be any of the following:

➡ affect gross revenues for a fiscal year by $400,000 or more;

➡ affect expenses for a fiscal year by $100,000 or more;

➡ affect assets or liabilities by $400,000 or more.

• For an entity with gross annual receipts of more than $10,000,000 but less than or equal to $100,000,000, the effect of the decision will be any of the following:

➡ affect gross revenues for a fiscal year by $200,000 or more;

➡ affect expenses for a fiscal year by $50,000 or more;

➡ affect assets or liabilities by $200,000 or more.

• For an entity with gross annual receipts of more than $1,000,000 but less than or equal to $10,000,000, the effect of the decision will be any of the following:

➡ affect gross revenues for a fiscal year by $100,000 or more;

➡ affect expenses for a fiscal year by $25,000 or more;

➡ affect assets or liabilities by $100,000 or more.

• For an entity with gross annual receipts of more than $100,000 but less than or equal to $1,000,000, the effect of the decision will be any of the following:

➡ affect gross revenues for a fiscal year by $50,000 or more;

➡ affect expenses for a fiscal year by $12,500 or more;

➡ affect assets or liabilities by $50,000 or more.

• For an entity with gross annual receipts of $100,000 or less, the effect of the decision will be any of the following:

➡ affect gross revenues for a fiscal year by $10,000 or more;

➡ affect expenses for a fiscal year by $2,500 or more;

➡ affect assets or liabilities by $10,000 or more.

♦ Individuals. The effect of a decision is material as to *individuals* who are sources of income or gifts and indirectly involved in the decision if any of the following applies:

➡The decision will affect the individual's income investments or other tangible or intangible assets or liabilities (other than real property) by $1,000 or more; or

➡The decision will affect the individual's real property interest in a manner that is considered material under the materiality standards applicable to real property indirectly involved in a decision.

♦ Nexus. Any reasonably foreseeable financial effect on a person who is a source of income to a public official is deemed material if the public official receives or is promised the income to achieve a goal or purpose which would be achieved, defeated, aided or hindered by the decision.

iv. Decisions involving personal financial effect

A reasonably foreseeable personal financial effect is material if it is at least $250 in any 12 month period.

d. What is reasonably foreseeable?

The effect of a decision is reasonably foreseeable if there is a substantial likelihood that it will occur. Substantial likelihood means more than a mere possibility, but less than a certainty.

e. Is the effect of the decision on the official's economic interest distinguishable from the effect on the public generally?

Even if the reasonably foreseeable financial effect of a decision is material, disqualification is required only if the effect is distinguishable from the effect on the public generally. For this exception to apply, a decision must affect the official's interest in

substantially the same manner as the decision affects a significant segment of the public. The regulations interpreting the Act contain specific rules for determining when a significant segment of the public has been affected by a decision.

f. Is the public official's participation legally required?

In some cases, even where an official has a conflict of interest, the official may participate if his or her participation is legally required. This exception is very narrow. Participation is legally required only if there is no officer or entity that may make the decision consistent with the purposes and terms of the statute authorizing the decision. This exception does not permit an official who is otherwise disqualified to break a tie or vote where a quorum of members of the agency who are not disqualified could be obtained.

g. What are the penalties?

Any person who knowingly or willfully violates the Political Reform Act is guilty of a misdemeanor, which is punishable by a fine of up to $10,000. A violation of the Act may also result in civil penalties and subject the individual to discipline by the official's agency.

h. What should an official with a conflict of interest do?

When a public official determines that a particular governmental decision will foreseeably and materially affect his or her economic interest in a manner different from the decision's affect upon the general public, the official has a conflict of interest. The official is not counted for purposes of establishing a quorum and must not vote on, make, participate in any way in, or attempt to influence, the decision.

2. Financial Disclosure Under the Political Reform Act

In addition to prohibiting participation in government decisions that affect a public official's financial interests, the Political Reform Act requires public officials with significant decisionmaking authority to publicly disclose their financial interests. The required financial disclosure informs the public about a public official's economic interests and potential conflicts of interest.

a. Who is required to file statements of economic interests?

All local public officials (including elected officials, candidates for elective office, appointed officials, and employees) who make, or participate in making, governmental decisions that could affect their personal financial interests are required to file financial disclosure forms. These forms are called "statements of economic interests," and are also known as "SEIs" or "Form 700s." The list of local appointed officials and employees who are required to file SEIs is set forth in San Francisco's Conflict of Interest Code in Chapter 58 of the San Francisco Administrative Code. Individuals who hold positions listed in Chapter 58 are called "designated employees."

b. What must be disclosed on statements of economic interests?

Depending upon the positions they hold, public officials who are required to file SEIs must disclose some or all of their interests in real property located in San Francisco, investments, business positions, and income (including gifts and loans) received during the preceding 12 months.

The amount of financial disclosure required depends upon the nature of the position held by a particular public official. Some public officials, such as elected City officials and members of the Planning Commission, file SEIs pursuant to state law, which determines how much information these officials must disclose. Most other public officials file SEIs pursuant to San Francisco's Conflict of Interest Code. The Conflict of Interest Code is proposed by each department that has affected employees and officers and is approved by the Board of Supervisors. The Conflict of Interest Code identifies the individuals in each department who must file SEIs and specifies the filing requirements for those individuals. The Conflict of Interest Code is set forth in San Francisco Administrative Code sections 58.1-58.600. Each public official should check these provisions to determine his or her disclosure obligations.

c. When must statements of economic interests be filed?

Public officials who are required to file statements must file an initial "assuming office statement" within 30 days of taking office. A "leaving office statement" must be filed within 30 days of leaving office. While in office, a public official must file an "annual statement" on or before April 1 of each year.

d. Where are statements of economic interests filed?

Members of Boards and Commissions and Department Heads must file their SEI's with the Ethics Commission. Agency heads of the Unified School District, the Community College District, the San Francisco Housing Authority, the Redevelopment Agency, the Office of Citizen Complaints, and the Law Library also file with the Ethics Commission. Members of the Civil Grand Jury must file their SEIs with the Executive Officer of the Superior Court. Employees must file their forms with their department heads or the executive director of their agency.

Financial disclosure forms may be obtained from the San Francisco Ethics Commission, which also provides assistance in completing the forms. The Commission's telephone number is 544-9510. In addition, Deputy City Attorneys Claire Sylvia (554-4706) and Julie Moll (554-4705), will assist you with questions regarding completion of the forms.

e. What are the consequences of not filing the forms or not disclosing required information?

Failure to comply with these reporting requirements may result in criminal and civil sanctions. The Political Reform Act provides for civil penalties in the amount of $2000 per

violation, or three times the amount not reported. In addition, there is a $10 a day fine (up to a maximum of $100) for late filings.

f. May I amend my statement of economic interests?

If you discover an error after you file your SEI, you may amend your filing. The Ethics Commission has amendment forms for this purpose.

g. Who has access to statements of economic interests?

SEIs are public records. Any member of the public may review and copy a public official's SEI.

B. Conflicts of Interest Under Government Code Section 1090

California Government Code § 1090 prohibits public officials from being financially interested in a contract made by them or by the boards or commissions of which they are members. Unlike conflicts of interest under the Political Reform Act, which may be addressed by abstaining from participating in a decision, a conflict of interest under Government Code § 1090 may require that a public official choose between maintaining a private interest and remaining in public office. Contracts made in violation of § 1090 are void and violation of this section may subject a public official to severe sanctions.

As further described below, there are some exceptions to the requirement of § 1090 that individuals with a financial interest in a contract must choose between the private interest and continued service on a Board or Commission.

1. What is a financial interest?

Section 1090 does not define the term financial interest. However, the courts have made clear that they will not construe the term "in a restrictive and technical manner." *People v. Honig* (1996) 48 *Cal.App.4th* 289. Section 1090 is "'concerned with any interest, other than perhaps a remote or minimal interest, which would prevent the officials involved from exercising absolute loyalty and undivided allegiance to the best interests of the [City].'" *Honig*, 48 Cal.App. 4th at 315.

2. What constitutes making a contract?

The statute does not define making a contract. The courts have construed this term broadly to serve the statute's purposes. Courts have held that the term extends to the planning, preliminary discussion, compromises, drawing of plans and specifications, and solicitations of bids that led up to the formal making of the contract. *Stigall v. City of Taft*, (1962) 58 Cal.2d 565, 569. The California Attorney General has stated that participation in the initial stages of making a contract can preclude a public official from seeking a contract after leaving office.

3. Remote interests

Government Code section 1091 identifies several "remote interests," or exceptions to Government Code section 1090. Remote interests are financial interests that the legislature has deemed sufficiently remote that an official with such an interest may abstain from voting on a matter in which the official has an interest rather than resign from the board or commission.

Remote interests include, for example, the interest of a landlord or tenant of the contracting party or the officer of a nonprofit corporation. The Appendix to this booklet includes a copy of section 1091, which lists the various remote interests. When a public official has a "remote interest," he or she may remain on the board or commission that votes on the contract, but the member with the remote interest must announce his or her interest on the record and abstain from voting on the matter involving the official's remote interest.

4. Noninterests

Section 1091.5 identifies some "noninterests." These are situations that the legislature has determined do not present a conflict of interest. A list of these noninterests may be found in the Appendix to this booklet, which includes a copy of section 1091.5. If a member of a board or commission has a noninterest, section 1090 does not prohibit the official from voting on the matter involving the noninterest.

Even where Government Code § 1090 would not preclude an official's participation in a decision, the public official must still ensure that the Political Reform Act would not bar participation in the decision.

C. Conflicts of Interest Under the Common Law

Prior to the enactment of state statutes on conflicts of interest, state courts developed a common law conflict of interest doctrine. Although it is unclear whether this doctrine applies in areas governed by statute, public officials should also consider this doctrine in assessing a proposed course of conduct. Generally, the doctrine provides that a public official owes an undivided duty of loyalty to the public. Where a governmental decision involves a conflict between a public official's duty of loyalty to the public and duty of loyalty to a private interest, the public official should avoid participating in the decision.

D. Conflicts of Interest Under Charter Section C8.105(a)

Charter section C8.105(a) prohibits an officer or employee of the City and County from becoming directly or indirectly interested in any contract, franchise, right, privilege or sale or lease of property awarded, entered into or authorized by him or her, by those under his or her supervision and control, or by a board or commission of which he or she is a member. An officer or employee must divest himself or herself of such an interest within 60 days or resign from his or her position. Like Government Code § 1090, this Charter provision does not permit an official to simply disclose his or her interest in a decision and abstain from participating. Rather, the official must choose between divesting himself or herself of the

prohibited interest and resigning. Like Government Code § 1090, Charter § C8.105 provides some exceptions to this harsh result.

Charter § C8.105 identifies several remote interests that generally (but not always) parallel the remote interests under Government Code § 1091, described earlier. If a public official has a remote interest, he or she may remain on the board or commission that awards or authorizes a contract or other right or privilege. However, the official must announce his or her interest on the record and abstain from voting on the matter involving the official's remote interest. These remote interests are set forth in Charter § C8.105(h), a copy of which is included in the Appendix to this booklet.

Charter § 8.105 also identifies some noninterests that generally (but not always) parallel the noninterests under Gov't Code § 1091.5. If a public official has a noninterest, he or she may remain on the board or commission and vote on the matter involving the noninterest. These noninterests are set forth in Charter § C8.105(i), a copy of which is included in the Appendix to this booklet.

II. OTHER PROHIBITIONS

Public officials are subject to a number of other state and local laws governing official conduct that seek to restrict conflicts between outside activities and public duties. The following is a brief description of some of these provisions.

A. Prohibition on Representing Private Parties Before City Boards and Commissions [Compensated Advocacy]

In 1986, the San Francisco voters adopted the Compensated Advocacy Ordinance. This initiative ordinance prohibits any officer of the City from representing, for compensation, any private interest before City boards or commission or their staffs. The prohibition extends to both personal appearances and written submissions. The prohibition is personal and does not prohibit members of an officer's firm or partnership from engaging in compensated advocacy before City boards and commissions.

B. Post-Employment Restrictions

Charter § C8.105(e) prohibits City officers and employees from representing any private interest before a City board or agency of which they were a member or employee for two years after they leave such service or employment. This section does not prohibit a former officer or employee from representing himself or herself before his or her former board or agency.

Charter § 15.108 prohibits the Mayor and Members of the Board of Supervisors from being appointed to any full-time compensated employment with the City and County for one year following service as Mayor or as a member of the Board of Supervisors. This restriction does not prohibit election to another office, or appointment to fill a vacancy in elective office or to a board or commission in the executive branch.

C. Incompatibility

1. Incompatible activities

Government Code section 1126 prohibits City officials from engaging in compensated activities that are incompatible with their official duties. Public officials should check the rules of their departments regulating incompatible activities.

2. Dual officeholding for compensation

The Charter prohibits any person holding an office under the City and County with an annual salary of more than $2500, from holding any other office with such a salary under the government of the United States, the State of California, or the City and County. A person who violates this provision is deemed to have vacated the City and County office.

3. Incompatible offices

The common law prohibits public officials from holding incompatible offices. Offices are incompatible, in the absence of statutes suggesting otherwise, if the duties of the two offices will result in a significant clash of loyalties, if the dual office holding would be improper for reasons of public policy, or if either officer exercises a supervisory, auditory, or removal power over the other. *People ex rel. Chapman v. Rapsey* (1940) 16 Cal. 2d 636. A person who violates this section is deemed to have vacated the first office.

D. Prohibition on Contracting with the City

Section 16.980 of the San Francisco Administrative Code prohibits members of appointed boards and commissions, other than advisory bodies, from contracting with the City, the School District, the Redevelopment Agency or the Community College District. This provision applies to any contract or subcontract of $10,000 or more per year. This prohibition does not apply to contracts or subcontracts with nonprofit organizations, or to contracts or subcontracts existing at the time of appointment, or to agreements to provide goods or services at substantially below fair market value. The prohibition also does not apply to contracts or subcontracts with business entities affiliated with a member of a Board or Commission unless the official exercises management and control over the business.

E. Prohibition on Disclosing Confidential Information

Charter section C8.105(d) prohibits City officers and employees from disclosing any privileged information concerning property, government, or affairs of the City and County unless a duty to do so is imposed upon said person by law. Officers and employees are also prohibited from using any privileged information obtained by virtue of their office or employment to advance their financial or other private interests.

F. Prohibition on Compensation for City Services

Charter section C8.105(f) prohibits City officers and employees from receiving directly or indirectly any compensation, reward or gift from any source (except the City and County or any other governmental agency to which he or she has been duly appointed) for any service, advice, assistance or other matter related to the governmental processes of the City and County.

This prohibition does not apply to fees for speeches or published writing, however, such fees may be prohibited under the Political Reform Act. For more information about fees for speaking and published writing, see part one, section III of this booklet.

G. Prohibition on Voting on Own Employment

Charter section C8.105(j) prohibits members of boards and commissions from knowingly voting on or in any way attempting to influence the outcome of governmental action involving his or her own character or conduct, his or her right as a member, or his or her appointment to any office, position, or employment, where the member's financial interest is immediate, particular, and distinct from the public interest.

H. Travel Discounts

Article XII, section 7 of the California Constitution prohibits public officers (but not employees) from accepting free passes or discounts from transportation companies. This prohibition does not apply to a public officer's receipt of "frequent-flyer" miles earned without regard to official status.

I. Political Activity

Local officers and employees may not use public resources to engage in political activity. *Stanson v. Mott* (1970) 17 Cal.3d 206; Cal. Penal Code § 424. In addition, local officers and employees may not directly or indirectly solicit funds from other officers or employees of the local agency or from persons on employment lists of the local agency, unless the solicitation is part of a solicitation made to a significant segment of the public that may include officers or employees of the agency. Government Code § 3205. Officers and employees may not participate in political activities of any kind while in uniform. Government Code § 3206.

For additional limitations on public officials soliciting campaign contributions, see section iv of Part I of this booklet.

J. Miscellaneous

There are several other significant restrictions on public officials that will be addressed elsewhere in this booklet. These include restrictions on the receipt of gifts and honoraria, and the prohibition on members of appointed boards and commissions soliciting or receiving campaign contributions.

Limitations and Restrictions on Gifts, Honoraria, Travel and Loans

A Fact Sheet For

- Local Elected Officers and Candidates for Local Elective Offices
- Local Officials Specified in Government Code Section 87200
- Judicial Candidates
- Designated Employees of Local Government Agencies

Fair Political Practices Commission

428 J Street
Suite 450
Sacramento CA 95814

Phone
(916) 322-5660

Fax
(916) 322-3711

Fax-on-Demand
(888) 622-1151

Website
www.fppc.ca.gov

January 1999

INTRODUCTION

The Political Reform Act[1] (the "Act") imposes limits on gifts and prohibits honoraria payments received by:

- Local elected officers and other local officials specified in Government Code Section 87200,[2] excluding judges;[3]
- Designated employees of local government agencies (i.e., individuals required to file statements of economic interests under a local agency's conflict of interest code); and
- Candidates[4] for any of these offices or positions and judicial candidates. (Sections 89502 and 89503.)

The Act also imposes limits and other restrictions on personal loans received by certain local officials.

This fact sheet summarizes the major provisions of the Act concerning gifts, honoraria, travel, and loans. You should not, however, rely on the fact sheet alone to ensure compliance with the Act. If you have any questions, contact the Fair Political Practices Commission at (916) 322-5660 or visit our website at www.fppc.ca.gov. Commission advice letters from 1986 to present are available on Lexis-Nexis at "CAFAIR" under California Library or on Westlaw at "CA-ETH."

1/ Government Code Sections 81000-91014. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq.

2/ Local officials specified in Government Code Section 87200 include: members of boards of supervisors and city councils, mayors, city/county planning commissioners, city/county chief administrative officers, city/county treasurers, district attorneys, county counsels, city managers, city attorneys, and public officials who manage public investments.

3/ The gift limits and honoraria ban in the Political Reform Act do not apply to a person in his or her capacity as judge. However, candidates for judicial offices are subject to the restrictions contained in the Political Reform Act.

4/ For purposes of the gift limit and honoraria prohibition, you become a "candidate" when you file a statement of organization (Form 410) as a controlled committee for the purpose of seeking elective office, a candidate intention statement (Form 501), or a declaration of candidacy, whichever occurs first. If you are an unsuccessful candidate, you will no longer be subject to the gift limit and honoraria prohibition when you are eligible to terminate your campaign filing obligations and have filed a statement of termination (Form 416), or after certification of election results, whichever is earlier. (Sections 89502(b) and 89503(b).)

GIFTS

Limitations

If you are a local elected officer, a candidate for local elective office, a local official specified in Government Code Section 87200, or a judicial candidate, you may not accept gifts from any single source totaling more than $300 in a calendar year. (Section 89503.)[5/]

If you are an employee of a local government agency who is designated in the agency's conflict of interest code, you may not accept gifts from any single source totaling more than $300 in a calendar year if you are required to report receiving income or gifts from that source on your statement of economic interests. (Section 89503(c).)

What is a "Gift"?

A "gift" is any payment or other benefit provided to you that confers a personal benefit for which you do not provide goods or services of equal or greater value. A gift includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public. (Section 82028.)

Except as discussed below, you have "received" or "accepted" a gift when you know that you have actual possession of the gift or when you take any action exercising direction or control over the gift, including discarding the gift or turning it over to another person. (Regulation 18941.)

Exceptions

The Act and Commission regulations provide exceptions for certain types of gifts. (Section 82028; Regulations 18940-18946.5.) **The following are not subject to any gift limit and are not required to be disclosed on a statement of economic interests (Form 700):**

1. Gifts which you return (unused) to the donor, or for which you reimburse the donor, within 30 days of receipt. (Section 82028(b)(2); Regulation 18943.)

5/ The gift limit is adjusted biennially to reflect changes in the Consumer Price Index. For 1999-2000, the gift limit is $300. (Section 89503; Regulation 18954.) Gifts aggregating $50 or more must be disclosed and gifts aggregating $300 or more received by an official may subject the official to disqualification with respect to the source. (Section 87103(e).) Designated employees should consult the "disclosure category" portion of their agency's conflict of interest code to determine if a particular source of income or gifts must be disclosed. Some conflict of interest codes require very limited disclosure of income and gifts. If your agency's conflict of interest code requires you to disclose income and gifts only from specified sources, gifts from sources which are not required to be disclosed are not subject to the $300 gift limit.

GIFTS
Continued

2. Gifts which you donate (unused) to a non-profit, tax-exempt (501(c)(3)) organization or a government agency within 30 days of receipt without claiming a deduction for tax purposes. (Section 82028(b)(2); Regulation 18943.)

3. Gifts from your spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, or first cousin or the spouse of any such person, unless he or she is acting as an agent or intermediary for another person who is the true source of the gift. (Section 82028(b)(3); Regulation 18942(a)(3).)

4. Gifts of hospitality involving food, drink or occasional lodging which you receive in an individual's home when the individual or a member of his or her family is present. (Regulation 18942(a)(7).)

5. Gifts approximately equal in value exchanged between you and another individual on holidays, birthdays, or similar occasions. (Regulation 18942(a)(8).)

6. Informational material provided to assist you in the performance of your official duties, including books, reports, pamphlets, calendars, periodicals, videotapes, or free or discounted admission to informational conferences or seminars.

"Informational material" may also include scale models, pictorial representations, maps, and other such items, provided that if the item's fair market value is more than $300, you have the burden of demonstrating that the item is informational. In addition, on-site demonstrations, tours, or inspections designed specifically for public officials are considered informational material, but this exception does not apply to meals or to transportation to the site unless the transportation is not commercially available. (Section 82028(b)(1); Regulations 18942(a)(1) and 18942.1.)

7. A bequest or inheritance. (Section 82028(b)(5); Regulation 18942(a)(5).)

8. Campaign contributions, including rebates or discounts received in connection with campaign activities. (Section 82028(b)(4); Regulation 18942(a)(4).) However, campaign contributions must be reported in accordance with the campaign disclosure provisions of the Act and are subject to other limitations imposed by the Act.

9. Personalized plaques and trophies with an individual value of less than $250. (Section 82028(b)(6); Regulation 18942(a)(6).)

10. Tickets to attend fundraisers for campaign committees or other candidates, and tickets to fundraisers for organizations exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. (Regulation 18946.4.)

11. Free admission, refreshments, and similar non-cash nominal benefits provided to you at an event at which you give a speech, participate in a panel or seminar, or provide a similar service. Transportation within California, and any necessary lodging and subsistence provided directly in connection with the speech, panel, seminar, or service, are also not considered gifts. (Regulation 18942(a)(9).)

GIFTS
Continued

12. Passes or tickets which provide admission or access to facilities, goods, services, or other benefits (either on a onetime or repeated basis) that you do not use and do not give to another person. (Regulation 18946.1.)

13. Gifts provided directly to members of your family unless you receive direct benefit from the gift or you exercise discretion and control over the use or disposition of the gift. (Regulation 18944.) (Note: In most cases, the full amount of a gift made to you and your spouse must be counted for purposes of disclosure and the gift limits. However, see the discussion below regarding wedding gifts.)

14. Gifts provided to your government agency. This may include passes or tickets to facilities, goods, or services, travel payments, and other benefits. However, certain conditions must be met before a gift received by an official through his or her agency would not be considered a gift to the official. (Regulations 18944.1-18944.2.) Contact the FPPC for detailed information.

15. Generally, payments made by a third party to co-sponsor an event that is principally legislative, governmental or charitable in nature. Payments made by a single source totaling $5,000 or more in a calendar year for this type of event must be reported if the payments are made at the behest of (at the request of, or in consultation or coordination with) an elected official. The report must be made to the elected official's agency, and then forwarded to the office that maintains the elected official's campaign disclosure statements. (Section 82015(b).)

16. Food, shelter, or similar assistance received in connection with a disaster relief program. The benefits must be received from a governmental agency or charity (501(c)(3)) and must be available to the general public. (Regulation 18942(a)(10).)

Reportable Gifts Not Subject to Limits

The following exceptions are also applicable to gifts, but you may be required to report these items on a statement of economic interests (Form 700) and they can subject you to disqualification:[6/]

1. Certain payments for transportation, lodging, and subsistence are not subject to gift limits but may be reportable. Travel payments are discussed below.

2. Wedding gifts are not subject to the gift limit but are reportable. For purposes of valuing wedding gifts, one-half of the value of each gift is attributable to each spouse, unless the gift is intended exclusively for the use and enjoyment of one spouse, in which case the entire value of the gift is attributable to that individual. (Regulation 18946.3.)

6/ Designated employees should consult the "disclosure category" portion of their agency's conflict of interest code to determine if a particular source of income or gifts must be disclosed.

GIFTS
Continued

3. A prize or award received in a bona fide competition not related to your official status is not subject to the gift limit, but must be reported as income if the value of the prize or award is $250 or more.

4. Passes or tickets which provide admission or access to facilities, goods, services, or other benefits are reportable and subject to the gift limit if you use them or give them to another person.

- The value of a pass or ticket which provides one-time admission is the face value of the pass or ticket, or the price which would be offered to the general public. (Regulation 18946.1(a).)

- The value of a pass or ticket which provides repeated admission or access to facilities, goods, services, or other benefits is the fair market value of your actual use of the pass or ticket, including guests who accompany you and who are admitted with the pass or ticket, plus the fair market value of any possible use by any person to whom you transfer the privilege or use of the pass or tickets. (Regulation 18946.1(b).)

HONORARIA

The Prohibition

If you are a local elected officer, a candidate for local elective office, a local official specified in Government Code Section 87200, or a judicial candidate, you may not accept honoraria payments. (Section 89502.)

If you are an employee of a local government agency who is designated in the agency's conflict of interest code, you may not accept honoraria payments from any source if you are required to report receiving income or gifts from that source on your statement of economic interests. (Section 89502(c).)

What is an "Honorarium"?

An "honorarium" is any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering. (Section 89501; Regulation 18931.)

A "speech given" means a public address, oration, or other form of oral presentation, including participation in a panel, seminar, or debate. (Regulation 18931.1.)

An "article published" means a nonfictional written work: 1) that is produced in connection with any activity other than the practice of a bona fide business, trade, or profession; and 2) that is published in a periodical, journal, newspaper, newsletter, magazine, pamphlet, or similar publication. (Regulation 18931.2.)

"Attendance" means being present during, making an appearance at, or serving as host or master of ceremonies for any public or private conference, convention, meeting, social event, meal, or like gathering. (Regulation 18931.3.)

Exceptions

The Act and Commission regulations provide certain exceptions to the prohibition on honoraria. (Section 89501; Regulations 18930-18935.) **The payments described below are not prohibited and are not required to be disclosed on a statement of economic interests (Form 700):**

1. An honorarium which you return (unused) to the donor or the donor's agent or intermediary within 30 days. (Section 89501(b); Regulation 18933.)

2. An honorarium which is delivered to your government agency within 30 days for donation to the agency's general fund or equivalent account for which you do not claim a deduction for income tax purposes. (Section 89501(b); Regulation 18933.)

3. A payment which is not delivered to you but is made directly to a bona fide charitable, educational, civic, religious, or similar tax-exempt, non-profit organization. However:

-- You may not make the donation a condition for your speech, article, or attendance;

HONORARIA
Continued

-- You may not claim the donation as a deduction for income tax purposes;

-- You may not be identified to the non-profit organization in connection with the donation; and

-- The donation may have no reasonably foreseeable financial effect on you or on any member of your immediate family. (Regulation 18932.5.)

4. A payment received from your spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person. However, a payment which would be considered an honorarium is prohibited if one of these persons is acting as an agent or intermediary for someone else. (Regulation 18932.4(b).)

5. Items 6, 8, 9, and 11 under "Exceptions to the Definition of 'Gift'" discussed earlier in this fact sheet.

Honoraria Exceptions Which May Be Reportable

The following payments are not considered "honoraria" but may be reportable and can subject a public official to disqualification:[7/]

1. Payments received for a comedic, dramatic, musical, or other similar artistic performance, and payments received for the publication of books, plays, or screenplays. (Regulations 18931.1-18931.2.) However, such payments are reportable income.

2. Income earned for your personal services if the services are provided in connection with a bona fide business, trade, or profession--such as teaching, practicing law, medicine, insurance, real estate, banking, or building contracting--and the services are customarily provided in connection with the business, trade, or profession.

This exception does not apply if the sole or predominant activity of the business, trade, or profession is making speeches. In addition, you must meet certain criteria to establish that you are practicing a bona fide business, trade, or profession (such as maintenance of business records, licensure, proof of teaching post) before a payment received for personal services which may meet the definition of honorarium would be considered earned income and not an honorarium. (Section 89501(b); Regulations 18932-18932.3.)

7/ Designated employees should consult the "disclosure category" portion of their agency's conflict of interest code to determine if a particular source of income or gifts must be disclosed.

HONORARIA
Continued

Earned income is required to be reported. Contact the FPPC for detailed information.

3. Free admission, food, beverages, and other non-cash nominal benefits provided to you at any public or private conference, convention, meeting, social event, meal, or similar gathering, whether or not you provide any substantive service at the event. (Regulation 18932.4(f).) Although these items are not considered honoraria, they may be reportable gifts and subject to the gift limit.

4. Certain payments for transportation, lodging, and subsistence are not considered honoraria but may be reportable and subject to the gift limit. (Sections 89501(c) and 89506.) Travel payments are discussed below.

TRAVEL PAYMENTS

The Act and Commission regulations provide exceptions to the gift limit and honoraria prohibition for certain types of travel payments. (Section 89506; Regulations 18950-18950.4.)

The term "travel payment" includes payments, advances, or reimbursements for travel, including actual transportation and related lodging and subsistence. (Section 89501(c).)

Exceptions Not Subject to Limits or Reporting

The following types of travel payments are not subject to any limit and are not reportable on a statement of economic interests (Form 700):

1. Transportation within California provided to you directly in connection with an event at which you give a speech, participate in a panel or seminar, or provide a similar service. (Regulation 18950.3.)

2. Free admission, refreshments, and similar non-cash nominal benefits provided to you during the entire event (inside or outside California) at which you give a speech, participate in a panel or seminar, or provide a similar service. (Regulation 18950.3.)

3. Necessary lodging and subsistence (inside or outside California), including meals and beverages, provided to you directly in connection with an event at which you give a speech, participate in a panel or seminar, or provide a similar service. However, in most cases, the exclusion for meals and beverages is limited to those provided on the day of the activity. (Regulation 18950.3.)

4. Travel payments provided to you by your government agency or by any state, local, or federal government agency which would be considered income and not a gift (i.e., payments for which you provide equal or greater consideration). (Section 89506(d)(2); Regulation 18950.1(d).)

5. Reimbursements for travel expenses provided to you by a bona fide non-profit, tax-exempt (501(c)(3)) entity for which you provide equal or greater consideration. (Section 82030(b)(2).)

6. Travel payments provided to you directly in connection with campaign activities. However, these payments must be reported in accordance with the campaign disclosure provisions of the Act. (Regulations 18950.1(c); 18950.4.)

7. Any payment which is excluded from the definition of "gift" as described earlier in this fact sheet.

Reportable Payments Not Subject to Limit

The following travel payments are not subject to the gift limit but may be reportable on a statement of economic interests (Form 700, Schedule F):

1. Travel which is reasonably necessary in connection with a bona fide business, trade, or profession, and which satisfies the criteria for federal

income tax deductions for business expenses specified in Sections 162 and 274 of the Internal Revenue Code. (Section 89506(d)(3); Regulation 18950.1(e).) For reporting purposes, these travel payments would be considered part of the salary, wages, and other income received from the business entity and would be reported on Schedule C of Form 700.

2. Travel within the United States which is reasonably related to a legislative or governmental purpose--or to an issue of state, national, or international public policy--in connection with an event at which you give a speech, participate in a panel or seminar or provide a similar service. Lodging and subsistence expenses in this case are limited to the day immediately preceding, the day of, and the day immediately following the speech, panel, or other service. (Section 89506(a)(1); Regulation 18950.1(a)(2).)

Note that this exception is different than travel payments described earlier. Under the circumstances described in this paragraph, transportation outside California but within the United States is not subject to the $300 gift limit but is reportable and can subject a public official to disqualification. On the other hand, transportation inside California in connection with a speech is neither limited nor reportable. (Regulation 18950.3.)

In addition, the lodging and subsistence payments described in this paragraph can be provided both the day before and the day after a speech without being subject to the $300 limit. However, lodging and subsistence payments <u>are reportable</u> unless they are received directly in connection with the event.

3. Travel **not** in connection with giving a speech, participating in a panel, or seminar or providing a similar service but which is reasonably related to a legislative or governmental purpose--or to an issue of state, national, or international public policy--and which is provided by:

- -- A government, governmental agency, foreign government, or government authority;
- -- A bona fide public or private educational institution defined in Section 203 of the Revenue and Taxation Code;
- -- A nonprofit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code; or
- -- A foreign organization that substantially satisfies the requirements for tax exempt status under Section 501(c)(3) of the Internal Revenue Code.

(Section 89506(a)(2); Regulation 18950.1(b).)

LOANS

Personal loans received by elected and appointed officials are subject to limits and other restrictions and, in some circumstances, a personal loan that is not being repaid or is being repaid below certain amounts may become a gift to the official who received it.

Limitations on Loans from Agency Officials, Consultants, and Contractors

If you are an elected official or an official specified in Section 87200 (see footnote 2 on page 1), you may not receive a personal loan that exceeds $250 at any given time from an officer, employee, member, or consultant of your government agency or an agency over which your agency exercises direction and control. (Section 87460(a) and (b).)

In addition, you may not receive a personal loan that exceeds $250 at any given time from any individual or entity that has a contract with your government agency or an agency over which your agency exercises direction and control. (Section 87460(c) and (d).)

Loan Terms

If you are an elected official, you may not receive a personal loan of $500 or more unless the loan is made in writing and clearly states the terms of the loan. The loan document must include the names of the parties to the loan agreement, as well as the date, amount, interest rate, and term of the loan. The loan document must also include the date or dates when payments are due and the amount of the payments. (Section 87461.)

The following loans are not subject to these limits and documentation requirements:

1. Loans received from banks or other financial institutions, and retail or credit card transactions, made in the normal course of business on terms available to members of the public without regard to official status.

2. Loans received by an elected officer's or candidate's campaign committee.

3. Loans received from your spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person unless he or she is acting as an agent or intermediary for another person not covered by this exemption.

4. Loans made, or offered in writing, prior to January 1, 1998.

LOANS
Continued

Loans as Gifts

Under the following circumstances, a personal loan received by **any** public official (elected and other officials specified in Section 87200, as well as any other local government official or employee required to file statements of economic interests) may become a gift and subject to gift reporting and limitations:

1. If the loan has a defined date or dates for repayment and has not been repaid, the loan will become a gift when the statute of limitations for filing an action for default has expired.

2. If the loan has no defined date or dates for repayment, the loan will become a gift if it remains unpaid when one year has elapsed from the later of:

-- The date the loan was made;

-- The date the last payment of $100 or more was made on the loan; or

-- The date upon which the official has made payments aggregating to less than $250 during the previous 12 months.

The following loans will not become gifts to an official:

1. A loan made to an elected officer's or candidate's campaign committee.

2. A loan described above on which the creditor has taken reasonable action to collect the balance due.

3. A loan described above on which the creditor, based on reasonable business considerations, has not undertaken collection action. (However, except in a criminal action, the creditor has the burden of proving that the decision not to take collection action was based on reasonable business considerations.)

4. A loan made to an official who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

5. A loan that would not be considered a gift as outlined in Part I of this fact sheet (e.g., loans from certain family members). (Section 87462.)

GOVERNMENT CODE SECTION 84308

The Political Reform Act was enacted by the people of the State of California by an initiative, known as Proposition 9 in 1974. Under the general conflict of interest provisions of the Act, the receipt of campaign contributions is not a basis for disqualification by a public official.

However, in 1983, Government Code Section 84308 was added to the Act to deal specifically with campaign contributions and government decisionmaking by certain officials. It does this in three ways. First, the law prohibits solicitation or receipt of campaign contributions by certain officials from parties, participants or their agents in proceedings involving licenses, permits or other entitlements for use. Second, the law requires an official's disqualification in such proceedings if the official has received campaign contributions of more than $250 from a party or participant within the 12 months preceding the decision. Third, it requires the disclosure of all such campaign contributions.

Who Must Comply With Section 84308?

The law applies only to board members, commissioners or individuals who head state or local government agencies and who make decisions in proceedings which involve licenses, permits or other entitlements for use. These persons are called officers in the statute to distinguish between those public officials who are covered by the statute and those who are not. Officers include planning commissioners, members of boards or commissions, board members of joint powers authorities and other regional governing or planning agencies, and leads of local and state agencies; however, certain agencies are exempt.

Which Agencies are Exempt Under Section 84308?

The law expressly exempts the courts, the Legislature, state constitutional officers and the Board of Equalization. Additionally, local government agencies whose members are directly elected by voters, such as boards of supervisors, city councils and school boards, are also exempt. This exemption applies to committees of the agency, and it applies when the agency designates itself in its entirety to sit as the governing body of another agency, e.g., a redevelopment agency. However, a member of one of these agencies is exempt only when he or she is elected. If a member of an exempt body is also a voting member of another body such as a joint powers agency or regional planning agency, the member is covered by the law only with respect to proceedings before the nonexempt body.

Example: The Orangeblossom City Council designates itself in its entirety to act as the city redevelopment agency. Section 84308 would not apply to the city council decisions nor to the redevelopment decisions.

Example: Three city councilmembers and two county supervisors sit on a city-county joint powers authority. Section 84308 applies to the license, permit or other entitlement for use proceedings before the joint powers authority because the councilmembers and supervisors were not elected directly to the authority.

Example: Rosehill Board of Supervisors has a committee, made up of supervisors only, which decides appeals from the county planning commission's decisions on land use licenses and permits. Section 84308 does not apply to committees of exempt agencies.

What Types of Governmental Proceedings are Covered by Section 84308?

The law applies to proceedings to grant, deny, revoke, restrict or modify "licenses, permits, or other entitlements for use." This is defined to mean proceedings on all business, profession, trade and land use licenses and permits, and other entitlements for use, including all entitlements for land use, all contracts (other than competitively bid, labor or personal employment contracts) and all franchises. Decisions on general plans, general building or development standards or other rules of general application are not covered by Section 84308. Examples of the types of decisions covered by the law include decisions on professional license revocations, conditional use permits, rezoning of specific parcels, zoning variances, tentative subdivision and parcel maps, consulting contracts, cable television franchises, building and development permits, public street abandonments, and private development plans. The law does not apply to purely ministerial decisions in these matters.

Who is a Party?

A party is any person (including a business entity) who files an application for, or is the subject of, a proceeding involving a license, permit or other entitlement for use.

Who is a Participant?

A participant is any person who is not an actual party to the proceeding, but who (1) actively supports or opposes a particular decision (i.e., lobbies the officers or employees of the agency, testifies in person before the agency, or otherwise acts to influence the officers of the agency) and (2) has a financial interest in the outcome of the decision.

Example: Paula Peters and Nancy North are neighbors in an exclusive residential neighborhood. North has applied for a conditional use permit to allow her to conduct an auto repair business on her driveway. In stating her opposition to North's application before the planning commission, Peters testified that the granting of the permit would substantially reduce the fair market value of her property. She also presented a petition signed by 20 neighborhood residents opposed to the granting of the permit. North is a party. Peters is a participant. She is not an actual party to the proceeding, but she has testified in opposition and has a financial interest in the outcome of the proceeding. The

neighbors who merely signed the petition are not participants. Merely signing a petition (defined as a communication signed by ten or more individuals) does not make one a participant.

Who is an Agent?

An agent is an individual or firm who represents a party or a participant in a proceeding. If an individual agent is an employee or member of a law, architectural, engineering or consulting firm, or a similar entity or corporation, both the entity or corporation and the individual are considered agents. Campaign contributions made by a party or participant are aggregated with those made by the party or participant's agent within the 12 months preceding the decision or the period of the agency relationship, whichever is shorter.

What Does Section 84308 Prohibit?

Section 84308 prohibits officers from soliciting, accepting or directing campaign contributions of more than $250 from any party, participant or agent of a party or participant, while a proceeding is pending before the officer's agency and for three months following the decision. This prohibition applies even where the contribution is for another candidiate. Similarly, a party or participant and his or her agent cannot make a campaign contribution of more than $250 to an officer during the pendency of the proceedings and for three months following the decision.

When a closed corporation is a party to, or a participant in, a proceeding, the majority shareholder of the corporation is subject to the prohibition and disclosure requirements as well as the corporation itself.

Examples: A person requests information from the city planning department on petitioning for a zoning variance. The matter is not pending before the planning commission, and Section 84308 does not apply until the petition is actually filed and submitted to the planning commission for its determination.

Examples: A person applies to the city for a conditional use permit, and the matter is set for hearing before the planning commission. The planning commissioners may not receive, solicit or direct any contributions of more than $250 from the applicant or his or her agents. The applicant is similarly prohibited from making any contributions of more than $250 to the planning commissioners while the matter is pending before the planning commission and for three months after the decision is made.

Disqualification: When is Disqualification Required?

Disqualification is required when, prior to making a decision, an officer learns that a party or participant in a proceeding has made a contribution of more than $250 to the officer

within the preceding 12 months. However, if the officer returns the campaign contribution (or that portion of the contribution which is over $250) within 30 days from the time he or she learns of the contribution and the proceeding, then disqualification is not required.

> **Examples:** A developer has filed for a conditional use permit from the city's land use agency. The developer gave a land use agency officer a $750 campaign contribution two months before he filed for the permit. The campaign contribution did not violate Section 84308 since it was given prior to the developer's request for a permit. Both the officer and the developer would be required to disclose the contribution and the officer would have to disqualify himself or herself from the proceedings, unless the officer returns at least $500 of the $750 (reducing the amount to $250) within 30 days of learning of both the contribution and the proceeding.

> **Examples:** Sarah Smith is a candidate for the Smalltown City Council. Smith is also on the Smalltown Planning Commission. John Doe has a permit request pending before the planning commission. Under Section 84308, Smith is prohibited from soliciting or receiving any contribution of more than $250 from Doe or Doe's agent. If Smith did receive a contribution of more than $250 from Doe, Smith and Doe would be required to disclose the contribution, and Smith would have to disqualify herself from the permit proceedings unless she returns that portion of the campaign contribution in excess of $250 within 30 days after learning of the contribution and Doe's pending permit.

Disclosure: Who and How?

Prior to rendering any decision, each officer who received a campaign contribution of more than $250 within the preceding 12 months from a party, participant or agent of a party or participant must disclose the fact on the record of the proceeding. If there is a public hearing, the officer should make the disclosure on the public record at the beginning of the hearing. However, if no public hearing is held, the disclosure should be included in the written record of the proceeding. Likewise, a party to a proceeding must disclose on the record of the proceeding any campaign contribution of more than $250 made within the preceding 12 months by the party or his/her agent to any officer of the agency. The FPPC has prepared disclosure forms for this purpose. The agency should make forms available to the agency's officers, parties, and participants.

How Can a Public Official Get Advice on Section 84308?

The first person a public official should consult for advice is the attorney for the official's agency. The official can also ask the Legal Division of the Fair Political Practices Commission for advice. Requests for written advice are generally answered within 21 working days, although written or telephone advice may be given more quickly in urgent situations. If an official poses a question which is unusually complex, significant or unique, the full Commission may issue an opinion.

The Commission can only issue opinions or give advice directly to the official or to the official's authorized representative. Advice about specific situations cannot be given to members of the public. However, general guidance about the requirements of the law will be provided to anyone who requests it. All Commission regulations and opinions are published by the California Continuing Education of the Bar. All advice requests and advice letters are public records. Opinions and significant advice letters are summarized in the Commission's Bulletin, which is published regularly. Copies of opinions and advice letters can be obtained from the Commission.

What are the Penalties for Violation of the Political Reform Act?

The Fair Political Practices Commission can bring an administrative action against an official who has violated the Political Reform Act, and can impose administrative penalties of up to $2,000 for each violation. An official who violates the Act may be subject to a civil lawsuit, in which a court can impose a fine. A willful violation of the Act is also a misdemeanor, punishable by a fine up to $10,000 or by imprisonment, and may result in the official being ineligible to run for public office for four years.

What Should You do if You Suspect that a Public Official has Violated the Political Reform Act?

Complaints concerning violations of the conflict of interest provisions of the Political Reform Act should be made to the local district attorney or the Enforcement Division of the Fair Political Practices Commission.

MASS MAILINGS AT PUBLIC EXPENSE

Government Code § 89001 provides that no newsletter or other mass mailing may be sent at public expense. A mass mailing is defined as more than 200 substantially similar pieces of mail. Gov't Code § 82041.5. Taken literally, the statute would preclude any large mailing at public expense, including many mailings essential to the operation of government, such as tax notices, sample ballots, and meeting agendas. To avoid this result, the Fair Political Practices Commission ("FPPC") has promulgated regulations to clarify which mass mailings are permissible and which are impermissible.

Under the FPPC's regulations, 2 Cal. Code Regs. § 18901(a)(1)-(4), a mass mailing is prohibited only if all of the following four requirements are met:

(1) TRANSMISSION. The item is sent or delivered by any means to the recipient at his or her residence, place of employment or business, or post office box. The FPPC has interpreted the rule broadly, to apply to a range of modes of transmission, including fax and personal delivery as well as postal delivery. According to the FPPC, the rule applies only to the transmission of materials to the locations specified in the rule -- to a person's home, office, or post office box.

(2) REFERENCE TO ELECTED OFFICER. The item sent either:

(a) features an elected officer affiliated with the agency which produces or sends the mailing, or;

(b) includes the name, officer, photograph, or other reference to an elected officer affiliated with the agency which produces or sends the mailing, and is prepared or sent in cooperation, consultation, coordination, or concert with the elected officer.

(3) PAID FOR WITH PUBLIC FUNDS. A mass mailing is sent at public expense if:

(a) any of the cost of distribution is paid for with public moneys or;

(b) costs of design, production, and printing exceeding $50 are paid with public money, and the design, production, or printing is done with the intent of sending the item other than as permitted by this regulation.

(4) MORE THAN 2OO PIECES SENT. The mass mailing rule applies only to mailings of more than 200 substantially similar items in a single calendar month. Copies that are exempt under 2 Cal.Code Regs. § 18901(b) are not counted towards the 200 limit. The following materials are exempt:

- **Letterhead.** Any item in which the elected official's name appears only in the letterhead or logotype of the stationery, forms (including "compliments of" cards), or envelopes. Such an item may not include the elected official's picture,

signature, or any other reference to the elected official, except as permitted by another exception. § 18901(b)(1).

- **Press releases.** A press release sent to members of the media. § 18901(b)(2).

- **Inter-office communications**. Materials sent in the normal course of business to other governmental entities or officers. § 18901(b)(3).

- **Intra-office communications**. Materials sent in the normal course of business to staff. § 18901(b)(4).

- **Collection or payment of funds**. Any item sent in connection with the payment or collection of funds if use of the elected official's name, office, title, or signature "is necessary to the payment or collection." § 18901(b)(5).

- **Essential to administration of program.** Any item sent by an agency responsible for administering a government program, or persons subject to that program, where the mailing is essential to the functioning of the program, the item does not include the elected official's photograph, and use of the elected official's name, office, title, or signature is necessary to the functioning of the program. § 18901(b)(6).

- **Required by law.** Any legal notice or item sent as required by law, court order, or order adopted by an administrative agency pursuant to the Administrative Procedure Act, and in which use of the elected officer's name, office, title, or signature is necessary. Inclusion of an elected officer's name on a ballot as a candidate for elective office, and inclusion of an elected officer's name on a ballot argument, shall be considered necessary to such a notice or other item. § 18901(b)(7).

- **Directories.** A telephone directory, organization chart, or similar listing or roster which includes the names of elected officers as well as other individuals in the agency sending the mailing, where all names are the same type size, type face, and type color and no photographs are included. § 18901(b)(8).

- **Announcements.** An announcement of a meeting if:

  (1) it is sent to the elected officer's constituents and concerns a public meeting that is directly related to the elected officer's incumbent governmental duties, which is to be held by the elected officer, and which the elected officer intends to attend; or

  (2) it announces an official agency event or events for which the agency is providing use of its facilities or staff or other financial support.

The announcement may not include the officer's photograph or signature and may include only a single mention of the officer's name, except as permitted elsewhere in this regulation. § 18901(b)(9)(emphasis added).

- **Agendas**. An agenda required to be made available. § 18901(b)(10).

- **Business card.** A business card which does not contain the elected officer's photograph or more than one mention of the elected officer's name. § 18901(b)(11).

- **Materials sent in response to unsolicited requests.** A request is unsolicited if it is not requested or induced by the elected officeholder or a third party acting at the behest of the officeholder. § 18901(c)(4).

THE SAN FRANCISCO ETHICS COMMISSION

San Francisco's Ethics Commission is responsible for the implementation and administration of local laws relating to political campaigns, lobbying, conflicts of interest, and governmental ethics. The Commission provides advice and assistance to City officers, candidates for City office, and City employees regarding compliance with local governmental ethics laws.

The Ethics Commission also investigates complaints regarding the conduct of City officers and employees. All complaints made to the Ethics Commission are confidential to the extent permitted by State law. In addition, local law protects individuals who file complaints with the Ethics Commission from retaliation for filing the complaint.

The Ethics Commission is located at 1390 Market Street, Suite 801, San Francisco, CA 94102. Copies of San Francisco's ethics laws, as well as information about the complaint process and forms and manuals produced by the Ethics Commission, are available on the Commission's web site at **http://www.ci.sf.ca.us/ethics**

PART TWO:

AN OVERVIEW OF PUBLIC RECORDS AND PUBLIC MEETING LAWS

PART TWO: TABLE OF CONTENTS

OVERVIEW OF PUBLIC RECORDS AND PUBLIC MEETINGS LAWS

		Page
I.	INTRODUCTION	48
II.	PUBLIC RECORDS AND INFORMATION LAWS	49
	A. What is a Public Record?	49
	B. Responding to a Public Records Request	50
	1. Proper Request	50
	2. Timely Response	50
	a. Standard Requests	50
	b. Immediate Disclosure Requests	50
	3. Proper Response	51
	4. Fees	51
	a. No Fees for Locating or Inspecting Records	51
	b. Fees for Copies	51
	c. Fees for Redacting Exempt Information from Documents	52
	d. Fees for Other Services	52
	C. Exemptions from Disclosure	52
	1. Exempt from Disclosure Under Other State or Federal Laws	53
	2. Personnel, Medical or Similar Files	53
	3. Pending Litigation	54
	4. Attorney-Client Communication	54
	5. Interest in Non-disclosure Outweighs Interest in Disclosure	54
	6. Deliberative Process	54
	7. Contracts, Bids, Requests for Proposals	54

8. Documents Containing Exempt and Non-Exempt Information 55

D. Providing Oral Information, Maintaining a Public Review File and Protecting Employees' Right to Express Personal Opinions 55

1. Oral Public Information 55

2. Public Review File 55

3. Employees' Rights to Express Opinions 55

III. RECORDS RETENTION AND DESTRUCTION LAWS 56

A. Records Defined 56

B. Classification of Records 57

C. Retention and Destruction of Records 57

IV. PUBLIC MEETING LAWS 58

A. Who is Subject to Public Meeting Laws? 58

1. Legislative or Policy Bodies 58

2. Sunshine Ordinance Passive Meeting Rules 58

3. Executive Officials 59

4. Non-profit Organizations 59

B. What is a Meeting? 59

1. Seriatim Meetings 59

2. Retreats 60

3. Social Occasions 60

C. Notice and Conduct of Meetings 60

1. Notice of Meetings 60

a. Regular Meetings 60

b. Special Meetings 60

2. Agendas 61

a. Posting and Mailing Agendas 61

b. Content of Agendas 61

c. Taking Action on Items Not on the Agenda 62

d. Amendments to Items on the Agenda 63

3. Quorum 63

4. Voting 63

5. Records of Meetings 64

a. Tape Recordings 64

b. Minutes 64

D. Closed Sessions 65

1. Notice and Agenda Requirements 65

2. Closed Sessions are Confidential 65

3. Reports on Closed Sessions 66

4. Most Common Types of Closed Sessions 66

a. Personnel Exception 66

b. Pending or Threatened Litigation 67

c. Real Estate Negotiations 69

d. Miscellaneous Exceptions 69

E. Rights of Members of the Public at Public Meetings 69

1. Public Comment 69

2. Availability of Agendas and Other Records Relating to Meetings 70

3. Tape Recording, Filming and Photographing Public Meetings 71

4. Disabled Access 71

F. Disruption of Meetings 71

V. CHARTER SECTION 16.112: REQUIRED NOTICE FOR CERTAIN CITY ACTIONS 71

VI. THE CITIZENS' RIGHT-TO-KNOW ACT OF 1998: NOTICE BEFORE APPROVING CITY PROJECTS (SAN FRANCISCO ADMINISTRATIVE CODE CHAPTER 79) 72

VII. THE AMERICANS WITH DISABILITES ACT NOTICE PROVISION 73

VIII. THE APPLICATION OF PUBLIC MEETINGS AND PUBLIC RECORDS LAWS TO NON-PROFIT ORGANIZATIONS 74

A. The Brown Act 74

B. The Public Records Act 74

C. The Sunshine Ordinance (San Francisco Administrative Code Chapter 67) 74

D. The Non-Profit Public Access Ordinance (San Francisco Administrative Code Chapter 12L) 75

1. Open Board Meetings 75

2. Public Access to Financial Records 76

3. Community Representation on the Board 76

4. Responsibility for the Costs of Complying with the Ordinance 76

5. Enforcement of the Ordinance 76

IX. CONCLUSION 77

OVERVIEW OF PUBLIC RECORDS AND PUBLIC MEETINGS LAWS

I. INTRODUCTION

This memorandum is intended to familiarize department heads, City personnel, and members of City boards and commissions with State and local laws governing the public's right of access to City records and meetings conducted by City boards and commissions. The memorandum is intended to be a reference for department personnel, commissioners, and commission staff members who need practical answers to questions.

We address the four major Acts that affect open government in San Francisco. The Public Records Act (Government Code Sections 6250 et seq.) is the state law governing public access to the records of state and local agencies. The Ralph M. Brown Act (Government Code Sections 54950 et seq.) is the state law governing the conduct of local governmental boards and commissions. The San Francisco Charter imposes additional requirements on the conduct of San Francisco boards, commissions and City officials. Finally, the San Francisco Sunshine Ordinance (San Francisco Administrative Code Chapter 67) imposes additional requirements affecting both the public's access to records and the conduct of City boards and commissions.[1]

In addition, we address the pertinent provision of the federal Americans with Disabilities Act and new provisions of the San Francisco Administrative Code as they relate to public records and public meeting laws.

Because the majority of City agencies, commissions, and boards must comply with the Sunshine Ordinance (see footnote one), we do not differentiate between it and the State laws. Where the two laws differ, we generally explain only the more rigorous standard.

The underlying policy of the public information laws is that access to information concerning the conduct of the government's business is a fundamental right of each citizen. The purpose of the open meetings laws is to ensure that decisions made by boards and commissions are made openly and with the public's participation.

All commission members and department personnel are strongly encouraged to contact the Office of the City Attorney whenever questions regarding public records or public meetings arise. Violations of these laws are far more likely to occur from ignorance of the law than from deliberate intent. Even unwitting violations, however, are often viewed with suspicion. They invite

---

[1] The San Francisco Health Authority, the San Francisco Housing Authority, the Redevelopment Agency, the San Francisco Transportation Authority, the Community College District and the San Francisco School District are subject only to the Brown Act. They are not obligated under law to follow the Sunshine Ordinance.

criticism and undermine the credibility of City departments, boards and commissions.

There are penalties for violating public records and public meetings laws. A violation of the Brown Act with the wrongful intent to deprive the public of information is a misdemeanor. In addition, a court may invalidate an action taken at an illegal meeting and award attorneys fees against the City. Further, violations of these laws may constitute official misconduct. Lawsuits over compliance with public records and public meeting laws are costly to the City and interfere with the ability of City departments and boards to carry out the public's business.

II. PUBLIC RECORDS AND INFORMATION LAWS

The premise of both the Public Records Act and the Sunshine Ordinance is that all records in the possession of government are public property. Absent some specific and limited exceptions, City agencies must make those records available for the public to inspect. This section will outline the disclosure requirements and procedures mandated by the Public Records Act and the Sunshine Ordinance.

A. What Is a Public Record?

The Public Records Act defines a "public record" broadly to include "any writing containing information relating to the conduct of the public's business prepared, owned, used or retained by any state or local agency, regardless of the physical form or characteristics." The Sunshine Ordinance defines "public information" as the content of "public records" as defined in the Public Records Act. If a document meeting the statutory definition is in the possession of a City department or agency, the document is a public record, whether or not it may be withheld from public disclosure.

A document does not have to be in written form to be a public record. A public record may consist of any medium that contains encoded information in the possession of a City department, such as a computer tape, video recording, cassette recording or movie. Should there be questions regarding public access to computer, video and other media, please consult the Office of the City Attorney.

The Public Records Act and Sunshine Ordinance require the City to disclose any identifiable record in its possession. The Sunshine Ordinance requires the City to make information available to a member of the public in any form requested so long as the information is available to the department in that form, including disk, tape, printout or monitor. The Sunshine Ordinance does not require a department to reprogram a computer, change the format of existing documents, or create a document not already in existence.

B. Responding to a Public Records Request

The following are guidelines to assist City officials in responding, properly, to public records requests.

1. Proper Request

A records request must specify the particular document or identifiable category of documents sought. The law does not give the requester the right to look through the files of an agency. A request may not properly ask "to inspect all of your records."

A request need not be in writing to be a lawful request. An agency is required to honor oral requests for records. However, a city official may *ask* that all requests for records be made in writing.

2. Timely Response

Both the Public Records Act and the Sunshine Ordinance require the City to respond to a records request promptly.

a. Standard Requests

Unless the request is made as an "Immediate Disclosure Request" (see directly below), a department must respond to a written request to inspect or copy records within ten days. However, in "unusual circumstances," an agency may extend the time to respond to an additional fourteen calendar days. The head of the agency or her designee must inform the requester in writing of the extension within the initial ten day period. The notice must set forth the reasons for the extension and the date on which a response will be made.

"Unusual circumstances" permitting the extension are limited to the need to: (a) search for and collect the requested records from facilities separate from the office processing the request; (b) search for, collect, and appropriately examine a voluminous amount of separate and distinct records included in a single request; and/or (c) consult with another component of the agency or with another agency that has a substantial interest in the response to the request.

Although departments are entitled to ten days to respond, departments should always attempt to respond as promptly as is reasonably possible.

b. Immediate Disclosure Requests

The Sunshine Ordinance requires a faster response for a limited category of records: preliminary drafts and memoranda, litigation material, personnel information, law enforcement information, contracts, bids and proposals, and budgets and other financial information. If not exempt, documents in these categories may be subject to immediate disclosure. To trigger the immediate disclosure requirement, both the request and the envelope in which it is delivered must bear the caption "Immediate Disclosure Request." Such requests must be satisfied no later than the close of business the next day.

A department may invoke the extension of no more than fourteen calendar days to respond to "immediate disclosure requests," but only on the following grounds: 1) the voluminous nature of the information requested; 2) its location in a remote storage facility, or 3) the need to consult with another interested department. If the City is invoking the fourteen day extension, the City must notify the requester by the close of business on the business day following the request.

3. Proper Response

Within the original or extended time period, the department should either (a) locate and disclose the document; (b) inform the requester that it has no document responsive to the request; or (c) inform the requester that the record exists, that it is exempt from disclosure and state the legal and factual grounds for the exemption.

The department should never simply refuse to respond to a request for documents. That is unlawful. Failing to respond could lead to a legal action in which the requester could recover attorneys fees against the City.

Although the department must respond in a timely fashion to a public records request, the right to inspect a document does not include the right to demand that a department cease its operations to respond to a request for a large number of documents. The response to the request must be reasonable. If, for example, the request encompasses numerous documents, a department may permit the requester access to documents in daily batches. The department may oversee the citizen inspecting records in a file to ensure that the citizen does not disturb the file.

If the department has no record(s) that meets the specification of the request, the department has no duty to create one (or to reprogram a computer to create one.) However, the department should provide the requester with information about records that exist that are similar to or contain some of the information that is requested and provide those records if the requester so desires.

4. Fees

a. No Fees For Locating Or Inspecting Records

The department may not charge any fees to cover the time and costs incurred in searching for, locating or collecting records to respond to a request to inspect the department's records. The department may not charge a member of the public a fee to view a department's records.

b. Fees For Copies

The department may charge a fee for the duplication and/or mailing of copies of records. For routinely produced documents, such as copies of an

agenda, the Sunshine Ordinance allows the City to charge 1¢ per page, plus postage. For documents assembled and copied to the order of the requester, a fee not to exceed 10¢ per page may be charged. A department may establish higher fees only if it prepares and posts an itemized cost analysis establishing that the per page direct cost exceeds the above amounts. Details regarding cost analysis calculations may be found in the Sunshine Ordinance at San Francisco Administrative Code section 67.28.

Where the member of the public requests a copy of a record on a medium other than paper, the City may charge for the cost of the medium on which the information is duplicated and for the direct costs of reproducing or transferring the information to the medium.

c. Fees for Redacting Exempt Information from Documents

As described below, a department may decline to disclose some public information when it falls within a specific exemption authorized under the Public Records Act. Some records contain both exempt and non-exempt information. Under the Public Records Act, a department has a duty to provide any "reasonably segregable" portion of a record. However, an agency could refuse to disclose an entire document, if it contained exempt material and the cost of redacting the exempt material outweighed the benefits to be derived from disclosing the remaining information.

Under the Sunshine Ordinance, however, no document may be withheld in its entirety unless all the information in it is exempt. The responding department must redact the exempted material and annotate the redactions by referring to the specific provision of the Public Records Act or Sunshine Ordinance authorizing the refusal to disclose. If more than one hour is required for this redaction process, the department may require the requester to pay the pro rata salary rate of the employee redacting the document. In addition, the requester may be required to provide a deposit. These charges are limited to the actual labor costs incurred in performing the redaction, not the costs of searching and retrieving the document.

d. Fees for Other Services

Limits on reproduction charges do not affect the ability of a department to charge for services other than duplicating, such as providing certified copies of documents. Please contact the Office of the City Attorney if you have questions regarding conflicts between fees authorized by the Sunshine Ordinance and fees authorized by other ordinances or state law.

C. Exemptions From Disclosure

The Public Records Act provides that certain classes of records are exempt from disclosure. In some cases, the Sunshine Ordinance affects the City's ability to claim an exemption. Interpreting these exemptions presents complex legal and factual questions. The burden is always on the department to

justify its refusal to disclose a document. When declining to disclose a document, the department must specify the legal basis for its refusal and be prepared to support the refusal with a factual justification. This memorandum is intended generally to alert public officials to some of the exemptions.

If there is a question whether an exemption applies, the custodian of the records should ask the person seeking the document to submit a written request. The written request should be referred promptly to the Office of the City Attorney so that the ten-day response deadline can be met.

A document's exempt status means that a government agency cannot be compelled to disclose it; in most cases, the agency may still voluntarily choose to do so.[2] The Public Records Act in and of itself does not prohibit the disclosure of exempt records; the Act merely sets a minimum right of public access that the city must provide.[3]

1. Exempt From Disclosure Under Other State or Federal Laws

Certain documents may be exempt because the United States Constitution, the California Constitution, or other federal or state laws prohibit their disclosure. For example, certain records may be exempt from disclosure because they reveal confidential or personal information regarding individuals. If such disclosure would constitute an unwarranted invasion of personal privacy or violate some other federal or state law prohibiting the disclosure of the information, the department may be prohibited from releasing the document.

2. Personnel, Medical or Similar Files

The department may decline to disclose personnel, medical or similar files, "the disclosure of which would constitute an unwarranted invasion of privacy." However, all personnel records are not automatically exempt. For example, members of the public are entitled to see records that contain an employee's name, job classification, current assignment, and actual wages earned including overtime. The Sunshine Ordinance also mandates disclosure of the job pool characteristics and employment and education histories of all successful job applicants, including sex, age, ethnicity and curriculum vitae. Home addresses, telephone numbers, social security numbers, ages and marital status must not be disclosed.

---

[2] Individual employees lack the authority to disclose privileged records. Such decisions must be made by department heads or commissions. Unauthorized disclosure of a privileged document is official misconduct.

[3] However, other state statutes do mandate the confidentiality of certain records, and the Public Records Act does not permit disclosure of these records. See, for example, Penal Code sections 832.5, 832.7 (prohibiting disclosure of records of citizen complaints against peace officers).

3. Pending Litigation

A department is not required to disclose records relating to pending litigation to which the department is a party, until the pending litigation is finally adjudicated or otherwise settled. If you receive a request to inspect records relating to pending litigation, please contact the deputy city attorney handling the litigation immediately.

4. Attorney-Client Communication

A department may decline to disclose any memoranda sent between the department and its attorneys that have not been disclosed to a third party.

5. Interest in Non-disclosure Outweighs Interest in Disclosure

In addition to the specific exemptions enumerated in the Act, there is a general exemption. This exemption allows the government agency to refuse to disclose records where on the facts of the particular case, the public interest in nondisclosure clearly outweighs the public interest in disclosure. A City agency relying on this exemption must be prepared to articulate a strong and specific public interest warranting nondisclosure. In such a situation, the City has the burden of establishing that the need to keep the document confidential is greater than the public's right of access.

6. Deliberative Process

A city agency may also decline to disclose documents under the "deliberative process privilege." A department may invoke the deliberate process privilege where the agency can demonstrate that the disclosure of the documents would discourage candid discussion within the agency and thereby undermine the agency's decision-making process and its ability to perform its functions. Again, the City has the burden of establishing that the need to keep the document confidential is greater than the public's right of access.

7. Contracts, Bids, Requests for Proposals

Contracts, contractors' bids, responses to requests for proposals, and all records of communications between departments and persons or firms seeking contracts must be available for public inspection immediately after a contract has been awarded. The Sunshine Ordinance allows departments to refuse to disclose documents containing information regarding an unsuccessful bidder's net worth. City agencies must inform bidders and contractors that all financial information provided by a successful contractor will be disclosed after the contract has been awarded.

The Sunshine Ordinance allows the City to refuse to disclose draft versions of contracts during the negotiating process. However, these drafts must be preserved and made available for public inspection for ten days prior to the presentation of the agreement to the board or commission for its approval, unless

it can be demonstrated and the board or commission finds that the City would be harmed by disclosing the drafts.

8. Documents Containing Exempt and Non-exempt Information

Some records contain both exempt and non-exempt information. As described above, the Sunshine Ordinance provides that a department may not withhold a document in its entirety unless all the information in it is exempt. The responding department must redact the exempted material and annotate the redactions by referring to the specific provision of the Public Records Act or Sunshine Ordinance authorizing the refusal to disclose. If more than one hour is required for this redaction process, the department may require the requester to pay the pro rata salary rate of the employee redacting the document.

D. Providing Oral Information, Maintaining a Public Review File and Protecting Employees' Right to Express Personal Opinions

1. Oral Public Information

Under the Sunshine Ordinance, each department head must designate a knowledgeable person or persons who can answer questions regarding departmental operations, plans, policies and positions. That person must respond to all inquiries, provided that no more than fifteen minutes is required to obtain the information responsive to the inquiry. The department head should designate more than one person, so that someone is always available to perform this duty.

2. Public Review File

The Sunshine Ordinance requires the Clerk of the Board of Supervisors and each board and commission enumerated in the Charter to maintain a public review file. The file must be accessible to any person during normal business hours. The public review file must contain copies of all communications distributed to or received from a quorum of the board or commission concerning any matter calendared by the body within the previous thirty days or likely to be calendared within the next thirty days. This requirement does not apply to exempt materials.

The file must be maintained in chronological order for communications received in the immediately preceding three business days. After the document has been on file for two days, it may be removed and placed in the monthly chronological file. The clerk need not put lengthy, multiple page reports that are attached to these communications in the chronological file so long as the memorandum of transmittal is included.

3. Employees' Rights to Express Opinions

The Sunshine Ordinance also addresses personal communications by City employees. It explicitly states that public employees have a right when off duty to express their personal opinions on any matter of public concern. Of

course, public employees may not express their opinions as those of the department or misrepresent a department's opinion. In addition, an employee has no right to engage in off-duty speech that could undermine the employee's ability to do his or her job or the capacity of the department to function. Before curtailing off-duty speech activities of an employee, a department representative should consult the Office of the City Attorney.

III. RECORDS RETENTION AND DESTRUCTION LAWS[4]

City, state and federal laws contain many provisions relating to the retention and destruction of records. Some of the most important requirements are summarized below. Department heads should familiarize themselves with the requirements contained in Chapter 8 of the San Francisco Administrative Code, as well as rules relating to particular documents in the department's possession.

The purpose of the records classification and retention law is to ensure that important records are preserved in an orderly fashion. Proper retention of records is necessary to ensure that the legal and financial rights of the City and its residents are protected. In addition, a carefully considered policy obviates the need of a department to retain unnecessary paper. Accordingly, each department head must develop a written policy specifically outlining which records must be maintained and for how long.

A. Records Defined

For the purpose of records retention, the term "records" is defined more narrowly than in the Public Records Act. "Records" include any paper, book, photograph, film, sound recording, map, drawing or other document, or any copy thereof, made or received by the department in connection with the transaction of public business and retained by the department as: 1) evidence of the department's activities, 2) for the information contained in it, or 3) to protect the legal or financial rights of the City or of persons directly affected by the activities of the City.

A number of documents do not fall within the definition of "records" for records retention purposes. These documents may be destroyed when they are no longer of use. Phone message slips, e-mail, notes of meetings, and research notes prepared for the personal use of the employee creating them may be destroyed immediately. Similarly, periodicals or publications received by a department that are not of historical significance may be destroyed. Duplicate copies of documents may be destroyed provided that the appropriate City department has retained the original. With one exception, drafts of documents

---

[4] For additional information, please see our memorandum on Classification and Systematic Retention and Destruction of Department Records dated January 5, 1998.

which have been superseded by later drafts or a final version need not be retained. Drafts of agreements City representatives are negotiating with another party must be retained for public review prior to approval by the department commission or board.

B. Classification of Records

All documents falling within the definition of "records," described above must be divided into three classifications:

1. **Current Records:** records which for convenience, ready reference or other reason are retained in office space and equipment of the department involved.

2. **Storage Records:** records which need not be retained in the office space and equipment of the department, but which must be, or should be, prudently preserved for a time or permanently in the facilities of a records center.

3. **Permanent Records:** records required by law to be permanently retained. Unless otherwise required by law or regulation, permanent records shall be stored by microfilming the paper records or placing them on an optical imaging storage system, placing the original film or tape in a State-approved storage vault and delivering a copy to the department. The paper records may then be destroyed.

In addition, each department must designate its Essential Records: records essential to the continuity of government and the protection of rights and interests of individuals in the event of a major disaster. The public interest demands that Essential Records be preserved against possible destruction by fire, earthquake, flood, enemy attack or other cause.

C. Retention and Destruction of Records

The department head must prepare a schedule for the systematic retention and destruction of its records. State law requires all records subject to records retention requirements to be maintained for at least 2 years.

Current Records and Storage Records over 5 years old may be destroyed if they have served their purpose and are no longer required for any public business or other public purpose. However, records pertaining to financial matters shall be destroyed only after approval by the Controller; those having legal significance only after approval by the City Attorney; and payroll checks, time cards and related documents only after approval by the Retirement Board. If requested by the Retirement Board, payroll checks, time cards and related documents shall be delivered to the Retirement Board instead of being destroyed.

Current Records and Storage Records more than two but less than five years old may be destroyed or otherwise disposed of under the following conditions, (1) if their destruction will not be detrimental to the City and County or defeat any public purpose, and (2) if a definitive description of such records and the retention period applicable to them are set forth in a records retention schedule that is prepared by the department head, approved by the Commission, and approved by the City Attorney as to records of legal significance, by the Controller as to records relating to financial matters, by the Retirement Board as to time rolls, time cards, payroll checks and related matters.

Permanent Records and Essential Records shall not be destroyed. However, paper records may be destroyed if the permanent or essential records have been microfilmed or placed on an optimal imaging storage system.

IV. PUBLIC MEETING LAWS

A. Who Is Subject To Public Meeting Laws?

1. Legislative or Policy Bodies

The Brown Act applies to "legislative bodies." A legislative body is any local government board, commission, committee, whether permanent or temporary, decisionmaking or advisory, created by charter, ordinance, resolution or formal action of a legislative body. The Sunshine Ordinance applies to "policy bodies." "Policy bodies" include all of the City's boards and commissions, any advisory body created by the initiative of a board, commission, or other policy body, and any standing committee of a policy body. Except where the context indicates otherwise, the terms "policy body" and "legislative body" are used interchangeably in this discussion of open meeting laws.

2. Sunshine Ordinance Passive Meeting Rules

The Sunshine Ordinance goes beyond the Brown Act by requiring certain bodies to comply with "passive meeting" rules. The following types of groups or gatherings are subject to passive meeting rules: 1) advisory committees created in writing by the initiative of a member of a policy body, the Mayor, the City Administrator or a department head[5]; 2) social, recreational or ceremonial occasions sponsored or organized by and for a policy body to which a majority of the body has been invited; and 3) that portion of any meeting of the governing board of an entity relating to its City business if the entity owns, operates or manages any property in which the City has or will have an ownership interest, on which the entity performs a governmental function related to the furtherance

---

[5] Often these officials do not formally create an advisory committee, but simply issue a press release or write letters appointing committee members. Press releases, letters of appointment, and letters thanking persons for agreeing to serve are sufficient to make these bodies subject to the passive meeting rules.

of health, safety or welfare.[6] Committees consisting solely of City employees are not subject to passive meeting rules.

The passive meeting rules require such gatherings or meetings to be open to the public. Bodies holding "passive meetings" need not prepare and post notices of meetings and agendas. However, upon request, an agency must disclose the time, place, and nature of the meeting and event, as well as any agenda prepared. These bodies are not required to allow the public to comment.

3. Executive Officials

Neither the Brown Act nor the Sunshine Ordinance applies to executive officials, even those serving under boards and commissions. Hence, neither the Controller nor the General Manager of the Public Utilities Commission must conduct business in public. However, as described below in Section V., Charter section 16.112 may require certain department heads to hold public hearings when taking actions specified in that section.

4. Non-profit Organizations

In certain circumstances, non-profit organizations engaged in the City's business or who contract with the City may be required to permit the public access to its meetings. Please see section VIII. below for more information.

B. What is a Meeting?

The Brown Act and Sunshine Ordinance apply to all "meetings" of legislative bodies. With limited exceptions, under the more expansive language of the Sunshine Ordinance, a meeting occurs whenever a majority of the members of a policy body come together at the same time and the same place. (A meeting may also occur even if a majority of the members do not come together at the same time or place. See "Seriatim Meetings" below.) A meeting occurs even if no action is taken. The Brown Act and Sunshine Ordinance protect the public's right to observe and participate in the legislative process even when the policy body is only gathering information or discussing an issue.

1. Seriatim Meetings

Even if a majority of the members of a commission are not present in one place at one time, an unlawful meeting may take place. Unlawful meetings can occur by fax, e-mail, telephone or through an intermediary. A meeting may occur when one member telephones or e-mails a majority of the members to discuss a departmental action. A meeting also occurs when a staff member of a commission telephones a majority of the members to obtain their approval of a departmental action. The Attorney General has referred to this process of consulting individually with several members in turn, outside of a noticed public

---

[6] Whenever a city agency leases or otherwise contracts with a private entity for these services, the contract must contain a provision requiring the entity to comply with the passive meeting rules.

meeting, as a "seriatim meeting." A seriatim meeting is unlawful, because it denies the public access to the information presented to and decisionmaking of the commission.

Thus, a majority of commissioners may not meet in person outside of a noticed and public meeting to discuss an item of business. Similarly, a majority of the commission may not discuss, by telephone or through an intermediary, any item of business. Nor may a member send a letter, fax, or e-mail regarding any item of business to a majority of members of the policy body.

2. Retreats

Commissioners often wonder whether they may go on a retreat simply to get to know one another and share common concerns regarding their duties as members of a particular commission. A commission may hold a retreat. However, such a gathering is a meeting and may not be conducted without notice, an agenda, and an opportunity for the public to attend and comment. Except for extremely limited circumstances, retreats, like all meetings, must be held within San Francisco.

3. Social Occasions

Under the Brown Act, a purely social gathering of a commission is not a meeting provided that the members refrain from discussing any business. However, certain social gatherings are subject to provisions of the Sunshine Ordinance. The Sunshine Ordinance provides that a "meal gathering" of a commission before, during or after a meeting is considered to be part of that meeting. Thus, such a gathering is subject to all of the applicable notice and agenda provisions of the Sunshine Ordinance. The public must be permitted to hear and observe the discussion of the members. In addition, the "meal meeting" may not be conducted in restaurants or other accommodations that require a payment to gain access.

In addition, as described above, social, recreational or ceremonial occasions sponsored by or organized by or for a commission are subject to the passive meeting provisions of the Sunshine Ordinance.

C. Notice and Conduct of Meetings

1. Notice of Meetings

a. Regular Meetings

All commissions must establish by ordinance, resolution, motion, or in their bylaws, a regular time and place for holding meetings.

b. Special Meetings

A special meeting is any meeting held at a time or place other than the regular meeting time or place. A special meeting may be called at any time by

the presiding officer (i.e., chair or president) or a majority of the members of the policy body. With certain limited exceptions, all meetings of legislative bodies must be held in the City. If a board or commission wishes to hold a special meeting outside of the City, the board or commission should consult with the Office of the City Attorney.

Notice of a special meeting must be given to each commission member and any members of the media who have requested notice in writing at least 24 hours in advance of the meeting. In addition, notice must be mailed to members of the public who have requested, in writing, to receive copies of agendas and agenda packets. In addition, the notice must be posted at least 24 hours in advance of the meeting. The notice must specify the time and place of the meeting and the business to be transacted or discussed.. If a special meeting is held at a location other than the body's regular meeting place, the Sunshine Ordinance requires a commission to give notice at least 15 days in advance of the special meeting.[7]

2. Agendas

a. Posting and Mailing Agendas

All policy bodies must post their agendas in a location accessible to the public at least 72 hours before regularly scheduled meetings. Additionally, each board and commission is required to send two copies of its agenda to the Government Information Center at the San Francisco Public Library. The copies must be received by the Library at least 72 hours before a regularly scheduled meeting. In addition, policy bodies must send copies of agendas and agenda packets to any member of the public who has made such a request in writing.

b. Content of Agendas

The agenda must contain a meaningful description of each item of business to be transacted or discussed by the policy body, including items to be discussed in closed session. The description must be sufficiently clear and specific to alert a person whose interests are affected that he or she may have reason to attend the meeting or seek more information on the item. The description generally need not exceed 20 words. The agenda may refer to explanatory documents, such as correspondence or reports, posted adjacent to the agenda. If such documents are of more than one page in length, they should be available for public inspection and copying at a stated location during normal office hours.

Agendas must specify certain information about closed sessions of a policy body depending on the subject of the closed session. (Please see the section below entitled "Closed Sessions".)

---

[7] Where the meeting is held in a different room number in the same building, the 15-day notice provision does not apply.

In addition, the Sunshine Ordinance requires that all agendas for all meetings include the following language:

> KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE
> (Chapter 67 of the San Francisco Administrative Code)
>
> Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.
>
> FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHINE ORDINANCE TASK FORCE.

Finally, the Sunshine Ordinance requires that each board and commission enumerated in the Charter include on the agenda for each general and special meeting the following statement:

> In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City accommodate these individuals.

c. Taking Action On Items Not On The Agenda

Generally, only matters listed on the agenda may be acted upon or discussed at a meeting. Under the Sunshine Ordinance, the body may take action on an item not listed on its agenda only in the following situations: 1) Upon a determination by a majority vote of the body that an accident, natural disaster or work force disruption poses a threat to public health and safety; 2) Upon a good faith, reasonable determination by a two-thirds vote of the body, or if less than two-thirds of the members are present, a unanimous vote of those members present, that (A) the need to take immediate action on the item is so imperative as to threaten serious injury to the public interest if action were deferred to a subsequent special or regular meeting, or the action relates to a purely commendatory action, and (B) the need for such action came to the attention of the body subsequent to the agenda being posted; or 3) the item was posted on an agenda for a prior meeting of the legislative body occurring no more than five calendar days earlier, and at the prior meeting the item was continued to the meeting at which action is being taken.

New topics not on the agenda are often introduced at meetings either by board or commission members or by members of the public. The Brown Act and Sunshine Ordinance prohibit a board or commission from discussing or taking action on such topics. If a member of the public makes a statement during the

public comment session, members of the policy body may ask questions for clarification, ask staff for factual information, or request staff to report back to the body at a subsequent meeting concerning the matter raised by the comments. If any action is contemplated, the board must calendar the matter for a subsequent meeting.

d. Amendments to Items on the Agenda

A common question is whether the legislative body must hold another public meeting to approve a proposal that is amended during the public meeting. Legislation may be amended and voted upon at the same public meeting so long as the amendments are within the reasonably foreseeable scope of changes that debate could produce in light of the description of the item on the agenda. If the basic nature of the legislation would be changed, going beyond the scope of the notice on the agenda, the legislative body must calendar the proposed change for consideration at a subsequent meeting. Any doubt as to whether another public meeting is necessary should be resolved by consulting the Office of the City Attorney.

3. Quorum

Generally, the Charter provides that a majority of the members of a board or commission constitutes a quorum for the transaction of business. The majority must consist of a majority of the number of members designated by law, rather than the number of seats actually filled.

When a quorum of a body fails to attend a scheduled meeting or the legislative body loses a quorum because of the departure of some of its members, the only official actions that the legislative body may take are to: (1) fix the time to which to adjourn; (2) adjourn the meeting; (3) recess the meeting; or (4) take measures to secure a quorum. Any other action taken by the body is null and void.

Once a meeting ceases, members of the legislative body may remain to discuss any matter they choose with the members of the public who have attended. In the event that documents are collected, notes taken or a recording made, they may be presented at the next meeting of the legislative body or of one of its committees so that they may become part of the legislative body's record.

If there is a lack of a quorum at a meeting of a legislative body that has committees, the parent board or commission may not reconstitute itself as a committee of the whole or as one of its committees, even if a quorum of that committee happens to be present. Such a committee meeting would require a separate notice and posting of agenda.

4. Voting

The Brown Act and Sunshine Ordinance prohibit secret ballots. All votes must be taken publicly. An absent member may not vote by proxy.

With two exceptions, members of commissions and boards must vote on every matter before the commission or board. As noted elsewhere in this handbook, a member must not vote on a matter where the member's vote would violate a conflict of interest law. In addition, a member may be excused from voting on a matter by a motion adopted by a majority of members present.

When determining whether a vote is approved, the vote count is based on the total number of seats, rather than the number of seats currently filled or the number of members present.

5. Records of Meetings

a. Tape Recordings

The Sunshine Ordinance requires each board or commission enumerated in the Charter to tape record each regular and special meeting. Under the Brown Act, the tape may not be erased or destroyed for thirty days. During that period, if the body receives a written request to inspect or copy that record, the tape may not be destroyed or erased until the inspection or copying is completed. A policy body may not charge a member of the public to listen to a tape recording of a meeting, or watch a video recording if a video was made.

b. Minutes

The Charter requires each board or commission to keep a record of the proceedings of each regular or special meeting. The record must include how each member voted on each question.

In addition, the Sunshine Ordinance requires the clerk or secretary of every board and commission enumerated in the charter to record the minutes of each meeting. The minutes must include the following: (1) the time the meeting was called to order; (2) the names of the members attending the meeting; (3) the roll call vote on each matter considered at the meeting; (4) a list of those members of the public who spoke on each matter if the speakers identified themselves; (5) whether such speakers supported or opposed the matter; and (6) the time the meeting was adjourned.

The draft minutes of each meeting must be available for inspection and copying no later than ten working days after the meeting. The officially adopted minutes must be available for inspection and copying no later than ten working days after the meeting at which the minutes are adopted. If requested to do so, the body must produce the minutes in Braille or enlarged type. In addition, each board and commission must send two copies of its minutes to the Government Information Center at the San Francisco Public Library.

D. Closed Sessions

The Legislature and Board of Supervisors have recognized that certain matters may best be discussed by the legislative body in private. However, such closed sessions are the exception to the general rule requiring public meetings. The exceptions are strictly limited.

Even if one of the exceptions discussed below applies, the legislative body usually is not required to meet in a closed session.[8] The legislative body makes the choice in such circumstances whether to meet in public; no member of the public has the right to demand a closed session.

If the legislative body meets in closed session, the body may not permit any members of the public to attend; the presence of unauthorized persons waives the confidentiality of the session. However, the legislative body may admit such advisors as are necessary to conduct the business prompting the closed session. In a closed session to deal with a personnel issue, the legislative body may invite the employee and his or her representative to hear the proceeding. Prior to entering into a closed session, the policy body must meet in open session to take public comment.

1. Notice and Agenda Requirements

A gathering of a legislative body in closed session is a meeting and therefore subject to most of the requirements of the Brown Act, including public notice and agendas. Before going into a closed session, the legislative body must first meet in open session to publicly announce its intent to enter a closed session, state the grounds for the closed session, and take public comment. In the closed session, the legislative body may consider only those matters listed on the agenda.

The Brown Act and Sunshine Ordinance require that certain information about closed sessions of a policy body be contained in the agenda. The requirements differ depending on the subject of the closed session. Please contact the Office of the City Attorney for assistance in drafting agendas for closed sessions.

2. Closed Sessions Are Confidential

After a legislative body has met in closed session, the body must meet again in public session to take certain action discussed below. Individual members may not disclose information obtained during the closed session. Only the legislative body acting as a group, and subject to state law requiring confidentiality of specific information or records, may determine whether information provided in the closed session may be disclosed to the public.

---

[8] In some instances, legislative bodies may need to address matters that state law requires them to keep confidential. Under those circumstances, the body must meet in a closed session.

Unauthorized disclosure by a member or staff person may constitute official misconduct.

Any record of a closed session is confidential and not subject to disclosure under the Public Records Act or the Sunshine Ordinance.

3. Reports on Closed Sessions

After a closed session, the board or commission must return to open session. If final action was taken in closed session, the legislative body must report the action taken and the vote of every member taken on the action. In certain circumstances, the legislative body may defer disclosing the action taken. (See the individual types of closed sessions below for more information.)

Under the Sunshine Ordinance, after a closed session, every policy body must, by motion and vote in open session, decide whether to disclose any or all information discussed in the closed session. The standard for disclosure is whether the majority deems disclosure to be in the public interest. Any such disclosure must be made through the presiding officer of the body or such other person whom the presiding officer designates to convey the information. The designated person must have been present in the closed session.

4. Most Common Types of Closed Sessions

a. Personnel Exception

Under the Sunshine Ordinance, a policy body may meet in closed session to discuss and act upon the appointment, termination, promotion, discipline or evaluation of any officer or employee only if the body has the power to appoint, employ, dismiss or discipline that officer or employee. The 1996 Charter requires the Mayor to appoint some department heads from a list of candidates nominated by the department's board or commission. The board or commission may meet in closed session to nominate its candidates.

When a closed session is calendared to discuss specific charges or complaints against an employee, the legislative body must notify the affected employee at least 24 hours before the meeting. If this notice is not given, any discipline imposed against the employee is void. The employee has the right to demand that the legislative body conduct such a meeting in public, but he or she may not demand that the legislative body conduct the meeting in private if the legislative body has determined to conduct the meeting in public.

A legislative body may not hold a closed session to discuss criteria for the selection or evaluation of an executive officer, the amount to pay an employee, or the body's expectations from its new department head. Because an independent contractor is not an employee, a legislative body may not meet in closed session to discuss the employment or termination of an independent contractor.

Additionally, the personnel exception does not authorize a legislative body to meet in closed session to elect one of its members president or vice-president.

After the closed session, the body must return to open session and report, orally or in writing, any action taken to appoint, employ, dismiss, transfer or accept the resignation of a public employee. The body must name the employee, the action taken, the position affected, and in the case of dismissal for a violation of law or City policy, the reason for the dismissal. A written summary of the information required to be immediately reported, or documents containing that information, shall be posted by the close of business on the next business day following the meeting, in the place where the meeting agendas of the body are posted.

b. Pending or Threatened Litigation

The Brown Act and the Sunshine Ordinance permit closed sessions for attorney-client communications on matters of "pending litigation."

"Litigation" includes any adjudicatory proceeding before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator. Litigation is considered pending when any of the following circumstances exist:

- an adjudicatory proceeding before a court, administrative body, hearing officer, or arbitrator, to which the local agency is a party, has been initiated formally;

- a point has been reached where, in the legislative body's opinion on the advice of its legal counsel based on existing facts and circumstances, there is a significant exposure to litigation;

- based on existing facts and circumstances, the legislative body has decided to initiate or is deciding whether to initiate litigation; or

- based on existing facts and circumstances, the legislative body is meeting only to decide whether a closed session is authorized under the exception for "pending litigation".

"Existing facts and circumstances" are limited to one of the following:

- facts and circumstances that might result in litigation against the agency but which the agency believes are not yet known to a potential plaintiff or plaintiffs, which facts and circumstances need not be disclosed;

- facts and circumstances, including, but not limited to, an accident, disaster, incident, or transactional occurrence that might result in litigation against the

agency and that are known to a potential plaintiff or plaintiffs, which facts or circumstances shall be publicly stated on the agenda or announced;

- the receipt of a claim pursuant to the Tort Claims Act or some other written communication from a potential plaintiff threatening litigation, which claim or communication shall be available for public inspection;

- a statement made by a person in an open and public meeting threatening litigation made on a specific matter within the responsibility of the legislative body;

- a statement threatening litigation made by a person outside an open and public meeting made on a specific matter within the responsibility of the local agency so long as the official or employee of the legislative body aware of the threat makes a contemporaneous or other record of the statement prior to the meeting which record shall be available for public inspection.

Before holding a closed session under the litigation exception, the Sunshine Ordinance requires the legislative body to vote, in open session, whether to invoke the attorney-client privilege to hold the closed session.

In addition, the legislative body must disclose on the agenda the statutory basis for the closed session. If the session is closed because the agency is a party to formally initiated litigation, the body must state the title of or otherwise specifically identify the litigation to be discussed, except in two circumstances: (1) the body states that to do so would jeopardize the agency's ability to effectuate service of process upon one or more unserved parties; or (2) to identify the litigation would jeopardize the body's ability to conclude existing settlement negotiations to its advantage.

After holding the closed session, the body must return to open session and report any approval given to legal counsel to prosecute, defend, seek or refrain from seeking appellate review or relief, or enter as a party, intervenor or an amicus curiae in any form of litigation. The report shall identify the adverse party or parties, any co-parties with the City, any existing claim or order to be defended against, or any factual circumstances or contractual dispute giving rise to the City's complaint, petition or other litigation initiative.

The body may defer giving its report if immediate disclosure of the City's intentions would be contrary to the public interest. In those instances, the body may wait to report until the first meeting after the adverse party or parties have been served in the matter.

If the body has given approval to its legal counsel of a settlement of pending litigation at any stage prior to or during a judicial or quasi-judicial proceeding, the action shall be reported after the settlement is final. If the body

accepts a settlement offer already signed by the opposing party, the body shall report its acceptance and identify the substance of the agreement in open session after the closed session is held. If the final approval rests with some other party to the litigation or with the court, the body shall report the settlement as soon as the settlement becomes final.

c. Real Estate Negotiations

The Brown Act and Sunshine Ordinance also permit a body to hold a closed session with its negotiator prior to the agency's purchase, sale, exchange, or lease of real property in order to grant authority to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

Prior to the closed session, the body shall hold an open session in which the body identifies its negotiators, the real property or real properties which the negotiations may concern and the person(s) with whom its negotiator may negotiate.

After the closed session, the body must publicly report any approval given to the negotiator once the agreement is final. If the body's own approval renders the agreement final, the body shall immediately report that approval, the substance of the agreement, and the vote taken. If final approval rests with the other party to the negotiations, the body shall make the disclosure once the other party has informed the body of its approval. Notwithstanding the final approval, if there are conditions precedent to the final consummation of the transaction, or there are multiple, continuous or closely located properties that are being considered for acquisition, the agreement need not be disclosed until the conditions are satisfied or the agreement has been reached with respect to all of the properties, or both.

d. Miscellaneous Exceptions

The Brown Act also allows for closed sessions (1) between a legislative body and its own labor negotiators;[9] (2) to address national security and public building security measures; (3) to consider license applications by persons with criminal records; and (4) for other special, limited circumstances. The Office of the City Attorney is ready to advise as the need arises.

E. Rights of Members of the Public at Public Meetings

1. Public Comment

The Brown Act and Sunshine Ordinance give the public the right to speak at all meetings of legislative bodies. Members of the public have the right to speak on every item on the agenda and on any item within the subject matter jurisdiction of the legislative body. The public must be given an opportunity to

---

[9] The legislative body may *not* meet in closed session with negotiators for the other side.

speak on an item before the legislative body takes action on it. This requirement ensures meaningful participation in the deliberations of the legislative body. The Board of Supervisors, only, is not required to provide for public comment on items before the full Board that were previously considered at a committee meeting at which public comment was allowed.

A public body has the power to adopt reasonable rules and regulations relating to public comment. The Sunshine Ordinance requires all boards, commissions and committees to allow each member of the public to speak once on each calendared item for up to three minutes. A body may wish to adopt a rule limiting public testimony in situations where an agenda item is heard in one meeting and public testimony is taken on the item, and it is continued to the next meeting for deliberation and action. In this situation, the public body may preclude individuals from testifying at the subsequent meeting on an item with regard to which they have already provided testimony. Citizens attending the second meeting who did not speak at the first meeting, should be allowed to testify. In addition, individuals who have points to make regarding issues that were not raised at the first meeting should also be allowed to testify.

If the parent board or commission limits a committee's authority to hear only those items referred to it by the parent board or commission, then the committee may limit public discussion to the items on its agenda. In other words, the committee is not required to take general public comment on items that are not listed on the agenda. Persons desiring to speak on non-agenda items may address those items at meetings of the parent board or commission, provided the items are within the jurisdiction of the parent board or commission.

2. Availability of Agendas and Other Records Relating to Meetings

Policy bodies must make agendas of meetings and certain other public records not otherwise exempt from disclosure and on file with the policy body available to the public. Any person may request to receive a copy of the agenda packet distributed to board or commission members. The request must be in writing. The materials must be mailed to the member of the public at the same time they are mailed to the commissioners or at the time of the posting of the agenda, whichever is earlier. The written request is valid for one year and must be renewed annually. The legislative body may establish a fee for mailing the packets not to exceed the costs of copies and postage.

All policy bodies must make agendas for each meeting available in alternative formats, upon request, to individuals with disabilities.

Records that are distributed during a public meeting but before the commencement of the discussion must be made available for public inspection before and during the discussion. Records that are distributed during the discussion of the item at a public meeting must be made available for public inspection immediately or as soon after the discussion as is practicable.

3. Tape Recording, Filming and Photographing Public Meetings

The Sunshine Ordinance gives members of the public the right to tape record, film or take photographs of public meetings, unless the body makes a reasonable finding that this activity persistently disrupts the meeting.

4. Disabled Access

All policy bodies must provide sign-language interpreters or note-takers at each regular meeting if the body has received a request for such services at least 48 hours before the meeting.[10] In addition, each board and commission must ensure that accessible seating for persons with disabilities, including those using wheelchairs, is made available for each regular and special meeting.

F. Disruption of Meetings

Generally, there are two sorts of disruptions that can occur at meetings. In some cases, individuals disrupt the meeting by making noise, speaking out of turn, or otherwise refusing to comply with the legislative body's rules governing their meetings. Individuals engaging in such conduct may be arrested and removed from the meeting. Before a presiding officer asks the police to arrest a person for disrupting a meeting, the offending individual should be warned and be given an opportunity to correct the behavior.

In other cases, there may be a general disruption of such a nature that order cannot be restored by the removal of the willful disrupter. In these situations, the legislative body may order the room cleared and then continue in session. In such an event, representatives of news media not involved in the disruption have a right to remain in the meeting. A legislative body may adopt a procedure for the readmittance of individuals not responsible for the disruption. In the alternative to ordering the room cleared, the legislative body may choose to continue the meeting to another date.

V. CHARTER SECTION 16.112: REQUIRED NOTICE FOR CERTAIN CITY ACTIONS

San Francisco Charter section 16.112 sets forth requirements, beyond those imposed by the Brown Act and Sunshine Ordinance, for providing notice of and public hearings before the City takes certain actions. Section 16.112 requires the City to hold public hearings before: closing, eliminating, or significantly reducing the level of services at any facility used by the public; significantly changing the operating schedule or route of a transit line; instituting or changing any fee, rates or fares affecting the public; or adopting any amendment to the general plan, change in zoning or land use. Section 16.112

---

[10] Where a policy body meets on a Monday, the request for such services must be made by 4:00 p.m. on the last business day of the preceding week.

requires the City to publish notice of these public hearings in the City's official newspaper.

In addition, section 16.112 requires the City to publish notice of: any sale, lease, rental, encumbrance or exchange of real property held by the City; the formation of special assessment districts and the conduct of hearings on protests of special assessment districts; the issuance of requests for bids or proposals involving expenditures of $50,000 or more and the award of contracts for the same; and polling places and precinct officers for any election.

Because of other changes the 1996 Charter makes to the powers of the Board of Supervisors, Charter section 16.112 primarily affects the Board. However, certain of its provisions affect other City departments, commissions and boards. For further information on this requirement, please contact the Office of the City Attorney.

VI. THE CITIZENS' RIGHT-TO-KNOW ACT OF 1998: NOTICE BEFORE APPROVING CITY PROJECTS (SAN FRANCISCO ADMINISTRATIVE CODE CHAPTER 79)

On June 2, 1998, San Francisco voters approved the Citizens' Right-To-Know Act of 1998. The Act requires City departments to post public notice prior to approving certain types of City projects. The criteria that trigger the need for posting and the timing of the posting are very fact-specific.

A "City Project," for purposes of the Act, is a project that houses City operations or provides services or assistance to the public and involves new construction, a change in use, or a significant expansion of an existing use at a specific location.[11] A City Project must either be undertaken directly by a City department, or by a contractor or other agent that receives $50,000 or more in City funding for the construction work or operating expenses from that particular location. City funding includes funding from federal, state or other sources that is administered by the City.

The following projects are exempt from Proposition I: (1) a shelter for battered persons; (2) certain family care, foster or group homes serving six or fewer persons; (3) a project undertaken solely to achieve compliance with disabled access laws; (4) a project in the public right-of-way; (5) a project outside the City limits.

A department sponsoring a City Project must give the public notice at least 15 days prior to that department's final "approval" of the project. "Approval" means an action by the City officer, department, board or commission that is

---

[11] The Zoning Administrator will interpret the terms "change in use" and "significant expansion of an existing use."

sponsoring a City Project in which a "final commitment" is made to fund or undertake the project.

The point at which "approval" occurs differs from City department to City department. By way of example, where the department is governed by a Commission, final approval may occur when the Commission approves funding for a project or approves the acquisition of land for a project. Where a department head or elected official has the authority to approve projects without action by a Commission, approval may occur, by way of example, when the department head enters into an architectural services contract, signs loan documents or awards a grant. "Approval" does *not* include a decision to undertake a preliminary study of one or more *potential* sites for a project. Rather, "approval" occurs when the sponsoring department makes a firm commitment to move forward with or fund a project at a particular location.

The notice required by the Act must be posted at least 15 days prior to the approval of the project, and must remain posted through the actual approval. The Act requires that a sign be posted on the property. The sign must be entitled NOTICE OF INTENT TO APPROVE A CITY PROJECT AT THIS LOCATION, and must identify the officer, department, board or commission that will consider approval of the project, the date of consideration, and how to obtain more information. Section 79.5 of the Ordinance describes the signposting requirements in more detail. The Director of Administrative Services has developed a standardized sign that may be used to satisfy the Act. Instead of signposting, a department may send mailed notice to property owners and occupants in a 300-foot radius of the property at least 20 days prior to consideration of the project approval.

VII. THE AMERICANS WITH DISABILITIES ACT NOTICE PROVISIONS

Title II of the Americans with Disabilities Act (28 CFR §35.106) requires public agencies, including City departments, to give notice to applicants, participants, beneficiaries, and all other interested persons of the rights and protections afforded by the Americans with Disabilities Act and its applicability to the services, programs, or activities of the City department. The Mayor's Office has proscribed use of the following notice by City departments on pamphlets, brochures, and notices describing programs, benefits, services or employment opportunities. In addition, the statement must be posted in places where the public meets with department staff.

> Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement:
>
> The (name of agency) does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

(Name of the ADA coordinator, address, phone number, and TTY or TDD number) has been designated to coordinate and carry out this department/agency's compliance with the nondiscrimination requirements of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA coordinator.

VIII. THE APPLICATION OF PUBLIC MEETINGS AND PUBLIC RECORDS LAWS TO NON-PROFIT ORGANIZATIONS

Some provisions of the Brown Act, Public Records Act and Sunshine Ordinance apply to some non-profit organizations. In addition, in 1998, San Francisco enacted a new law governing public access to the meetings and records of some non-profit organizations that contract with the City.

A. The Brown Act

In limited circumstances, a board of directors of a non-profit corporation may be subject to all of the provisions of the Brown Act: first, where the corporation is created by the Board of Supervisors in order to exercise authority that may lawfully be delegated by the Board to a private corporation or entity; and second, where the corporation receives funds from a local agency and the membership of the board of directors includes a member of a legislative body of that agency appointed to the board as a full voting member by the legislative body. In those circumstances, the corporation's board must conduct its meetings in conformance with all of the provisions of the Brown Act.

B. The Public Records Act

In the same limited circumstances, a non-profit corporation may also be subject to the provisions of the Public Records Act. A non-profit organization whose meetings of its board of directors are subject to the Brown Act, as described directly above, is also subject to the Public Records Act.[12] Therefore, the records maintained by such an organization are considered public records, just like records maintained by City departments.

C. The Sunshine Ordinance (San Francisco Administrative Code Chapter 67)

As described above in section IV.A.2., in limited circumstances, the Sunshine Ordinance's passive meeting rules apply to some meetings of non-profit organizations. If a non-profit corporation owns, operates or manages any

---

[12] Prior to January 1, 1999, the Public Records Act applied to any "nonprofit organizations of local governmental agencies and officials which are supported solely by public funds." Effective January 1, 1999, the Public Records Act has been amended to apply only to nonprofit organizations that are subject to the Brown Act.

property in which the City has or will have an ownership interest, on which the entity performs a governmental function related to the furtherance of health, safety or welfare, that portion of any meeting of the governing board of the corporation relating to its City business must comply with the passive meeting provisions.

The portion of the meetings relating to City business must be open to the public. Upon request, the corporation must disclose the time, place, and nature of the meeting and event, as well as any agenda prepared. At those meetings, the board may, but is not required to, take public comment.

D. The Non-Profit Public Access Ordinance (San Francisco Administrative Code Chapter 12L)

Effective October 17, 1998, the San Francisco Board of Supervisors enacted Chapter 12L of the Administrative Code, the Non-profit Public Access Ordinance. These provisions impose public access requirements on certain non-profit entities that contract with the City.

These requirements apply to non-profit organizations that receive at least $250,000 per year in funding provided by or through the City and have at least one "contract" with the City, as that term is defined in the legislation. The legislation defines a "contract" to include any agreement under which a non-profit receives City-provided or City-controlled funds for its operations or programs, or for goods or services which it provides to the public. Agreements to provide the City with goods used by City government itself (such as office supplies or similar items), and agreements to provide services or benefits to City employees and/or their dependents, are not "contracts" under the amendments. However, money that a non-profit receives under such agreements will count toward the $250,000 annual threshold, so long as the non-profit has another agreement with the City that is a "contract" under the legislation.

1. Open Board Meetings

Each organization covered under the Ordinance must allow the public to attend at least two typical meetings per year of its Board of Directors. Members of the public who attend those meetings must be allowed to address the Board on subjects of public interest relating to the organization's operations. At least 30 days before each such designated public Board meeting, the organization must send written notice of the meeting's date, time, and location to the Clerk of the Board of Supervisors for posting. Upon request, each organization must inform any member of the public of the next designated public meeting's date, time, and location.

The organization is not required to alter the location or facility in which its Board meets. A non-profit organization may preclude the public from attending those portions of a designated public Board meeting which concern specified subjects (generally where public attendance at that portion of the meeting would

result in the violation of client or donor confidentiality, the violation of the attorney-client privilege, or disclosure of a trade secret; or when the Board will be discussing litigation, real estate acquisitions, or employee hiring or performance). Finally, non-profit organizations engaged primarily in abortion counseling or abortion services, domestic violence sheltering, or suicide prevention are not required to open their Board meetings to the public.

2. Public Access to Financial Records

Each organization subject to the Ordinance is required to make available for public inspection and copying its (1) most recent budget, as provided to the City in a grant or contract application; (2) most recent tax returns; and (3) any financial audits or performance evaluations of the organization done within the last two years by or for the City, so long as the City has not designated them as confidential. No document need be made available to the public if doing so would reveal the identity of the non-profit donor(s), or the amount or nature of any donation.

The public may inspect these documents during the organization's regular business hours, or receive copies, upon 10 days' notice.

3. Community Representation on the Board

As City policy, the Ordinance calls for each non-profit organization subject to the Ordinance to make good-faith efforts to promote the membership, on its Board, of at least one member of the community served by the organization. In order to encourage such community participation, each organization is required to give public notice of Board vacancies; allow members of the public to propose themselves for Board membership; and allow the public to comment on Board membership issues at at least one designated public Board meeting per year.

4. Responsibility For The Costs Of Complying With The Ordinance

Members of the public who request copies of financial records may be charged the direct costs of copying and mailing those records. Each covered non-profit organization will be responsible for any costs incurred in complying with these requirements other than direct copying or mailing costs, up to a ceiling of $500 per year.

5. Enforcement of the Ordinance

Complaints from the public concerning an organization's compliance with these requirements will be handled by a three-stage non-binding dispute resolution process. That process consists of review of the complaint and recommended resolution by the contracting City department; optional advisory review by the Sunshine Ordinance Task Force; and review and recommended resolution by the Board of Supervisors. If an organization materially breaches its obligations under the Ordinance, the contracting City department is authorized, but not required, to terminate or decline to renew the organization's contract.

IX. CONCLUSION

We hope this information is useful. We encourage you to contact the Office of the City Attorney with any questions specific to your department.

APPENDIX:

ETHICS, PUBLIC RECORDS AND PUBLIC MEETING LAWS

CONFLICTS OF INTEREST
(Government code Section 1090, et seq.)

GOVERNMENT CODE
TITLE 1. GENERAL
DIVISION 4. PUBLIC OFFICERS AND EMPLOYEES
CHAPTER 1. GENERAL

§ 1090. Conflicts of interest contracts, sales and purchases

Members of the Legislature, state, county, district, judicial district, and city officers or employees shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members. Nor shall state, county, district, judicial district, and city officers or employees be purchasers at any sale or vendors at any purchase made by them in their official capacity.

As used in this article, "district" means any agency of the state formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries.

§ 1091. Remote interest of officer or member

(a) An officer shall not be deemed to be interested in a contract entered into by a body or board of which the officer is a member within the meaning of this article if the officer has only a remote interest in the contract and if the fact of that interest is disclosed to the body of the board of which the officer is a member and noted in its official records, and thereafter the body or board authorizes, approves, or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer or member with the remote interest.

(b) As used in this article, "remote interest" means any of the following:

(1) That of an officer or employee of a nonprofit corporation, except as provided in paragraph (8) of subdivision (a) of Section 1091.5.

(2) That of an employee or agent of the contracting party, if the contracting party has 10 or more other employees and if the officer was an employee or agent of that contracting party for at least three years prior to the officer initially accepting his or her office and the officer owns less than 3 percent of the shares of stock of the contracting party; and the employee or agent is not an officer or director of the contracting party and did not directly participate in formulating the bid of the contracting party.

For purposes of this paragraph, time of employment with the contracting party by the officer shall be counted in computing the three-year period specified in this paragraph even though the contracting party has been converted from one form of business organization to a different form of business organization within three years of the initial taking of office by the officer. Time of employment in that case shall be counted only if, after the transfer or change in organization, the real or ultimate ownership of the contracting party is the same or substantially similar to that which existed before the transfer or change in organization. For purposes of this paragraph, stockholders, bondholders, partners, or other persons holding an interest in the contracting party are regarded as having the "real or ultimate ownership" of the contracting party.

(3) That of an employee or agent of the contracting party, if all of the following conditions are met:

(A) The agency of which the person is an officer is a local public agency located in a county with a population of less than 4,000,000.

(B) The contract is competitively bid and is not for personal services.

(C) The employee or agent is not in a primary management capacity with the contracting party, is not an officer or director of the contracting party, and holds no ownership interest in the contracting party.

(D) The contracting party has 10 or more other employees.

(E) The employee or agent did not directly participate in formulating the bid of the contracting party.

(F) The contracting party is the lowest responsible bidder.

(4) That of a parent in the earnings of his or her minor child for personal services.

(5) That of a landlord or tenant of the contracting party.

(6) That of an attorney of the contracting party or that of an owner, officer, employee, or agent of a firm which renders, or has rendered, service to the contracting party in the capacity of stockbroker, insurance agent, insurance broker, real estate agent, or real estate broker, if these individuals have not received and will not receive remuneration, consideration, or a commission as a result of the contract and if these individuals have an ownership interest of 10 percent or more in the law practice or firm, stock brokerage firm, insurance firm, or real estate firm.

(7) That of a member of a nonprofit corporation formed under the Food and Agricultural Code or a nonprofit corporation formed under the Corporations Code for the sole purpose of engaging in the merchandising of agricultural products or the supplying of water.

(8) That of a supplier of goods or services when those goods or services have been supplied to the contracting party by the officer for at least five years prior to his or her election or appointment to office.

(9) That of a person subject to the provisions of Section 1090 in any contract or agreement entered into pursuant to the provisions of the California Land Conservation Act of 1965.

(10) Except as provided in subdivision (b) of Section 1091.5, that of a director of or a person having an ownership interest of 10 percent or more in a bank, bank holding company, or savings and loan association with which a party to the contract has a relationship of borrower or depositor, debtor or creditor.

(11) That of an engineer, geologist, or architect employed by a consulting engineering or architectural firm. This paragraph applies only to an employee of a consulting firm who does not serve in a primary management capacity, and does not apply to an officer or director of a consulting firm.

(12) That of an elected officer otherwise subject to Section 1090, in any housing assistance payment contract entered into pursuant to Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f) as amended, provided that the housing assistance payment contract was in existence before Section 1090 became applicable to the officer and will be renewed or extended only as to the existing tenant, or, in a jurisdiction in which the rental vacancy rate is less than 5 percent, as to new tenants in a unit previously under a Section 8 contract. This section applies to any person who became a public official on or after November 1, 1986.

(c) This section is not applicable to any officer interested in a contract who influences or attempts to influence another member of the body or board of which he or she is a member to enter into the contract.

(d) The willful failure of an officer to disclose the fact of his or her interest in a contract pursuant to this section is punishable as provided in Section 1097. That violation does not void the contract unless the contracting party had knowledge of the fact of the remote interest of the officer at the time the contract was executed.

§ 1091.1. Interest in contracts; subdivided lands

The prohibition against an interest in contracts provided by this article or any other provision of law shall not be deemed to prohibit any public officer or member of any public board or commission from subdividing lands owned by him or in which he has an interest and which subdivision of lands is effected under the provisions of Division 2 (commencing with Section 66410) of Title 7 of the Government Code or any local ordinance concerning subdivisions; provided, that (a) said officer or member of such board or commission shall first fully disclose the nature of his interest in any such lands to the legislative body having jurisdiction over the subdivision thereof, and (b) said officer or member of such board or commission shall not cast his vote upon any matter or contract concerning said subdivision in any manner whatever.

§ 1091.2. Private industry council contracts or grants

Section 1090 shall not apply to any contract or grant made by private industry councils established pursuant to Chapter 4 (commencing with Section 15030) of Division 8 of the Unemployment Insurance Code, unless both of the following conditions are met:
(a) The contract or grant directly bears on services to be provided by any member of a private industry council or any business or organization which the member directly represents, or the contract or grant would financially benefit the member or business or organization which the member represents.

(b) The affected private industry council member fails to comply with Section 87100.

§ 1091.5. Interests not constituting an interest in a contract

(a) An officer or employee shall not be deemed to be interested in a contract if his or her interest is any of the following:
(1) The ownership of less than 3 percent of the shares of a corporation for profit, provided the total annual income to him or her from dividends, including the value of stock dividends, from the corporation does not exceed 5 percent of his or her total annual income, and any other payments made to him or her by the corporation do not exceed 5 percent of his or her total annual income.
(2) That of an officer in being reimbursed for his or her actual and necessary expenses incurred in the performance of official duty.
(3) That of a recipient of public services generally provided by the public body or board of which he or she is a member, on the same terms and conditions as if he or she were not a member of the board.
(4) That of a landlord or tenant of the contracting party if such contracting party is the federal government or any federal department or agency, this state or an adjoining state, any department or agency of this state or an adjoining state, any county or city of this state or an adjoining state, or any public corporation or special, judicial, or other public district of this state or an adjoining state unless the subject matter of such contract is the property in which such officer or employee has such interest as landlord or tenant in which event his or her interest shall be deemed a remote interest within the meaning of, and subject to, the provisions of Section 1091.
(5) That of a tenant in a public housing authority created pursuant to Part 2 (commencing with Section 34200) of Division 24 of the Health and Safety Code in which he or she serves as a member of the board of commissioners of the authority or of a community development commission created pursuant to Part 1.7 (commencing with Section 34100) of Division 24 of the Health and Safety Code.
(6) That of a spouse of an officer or employee of a public agency in his or her spouse's employment or officeholding if his or her spouse's employment or officeholding has existed for at least one year prior to his or her election or appointment.
(7) That of a nonsalaried member of a nonprofit corporation, provided that such interest is disclosed to the body or board at the time of the first consideration of the contract, and provided further that such interest is noted in its official records.
(8) That of a noncompensated officer of a nonprofit, tax-exempt corporation, which, as one of its primary purposes, supports the functions of the body or board or to which the body or board has a legal obligation to give particular consideration, and provided further that such interest is noted in its official records.
For purposes of this paragraph an officer is "noncompensated" even though he or she receives reimbursement from the nonprofit, tax-exempt corporation for necessary travel and other actual expenses incurred in performing duties of his or her office.
(9) That of compensation for employment with a governmental agency, other than the governmental agency that employs the officer or employee, provided that the interest is disclosed to the body or board at the time of consideration of the

contract, and provided further that the interest is noted in its official record.

(10) That of an attorney of the contracting party or that of an owner, officer, employee, or agent of a firm which renders, or has rendered, service to the contracting party in the capacity of stockbroker, insurance agent, insurance broker, real estate agent, or real estate broker, if these individuals have not received and will not receive remuneration, consideration, or a commission as a result of the contract and if these individuals have an ownership interest of less than 10 percent in the law practice or firm, stock brokerage firm, insurance firm, or real estate firm.

(11) Except as provided in subdivision (b), that of an officer or employee of or a person having less than a 10 percent ownership interest in a bank, bank holding company, or savings and loan association with which a party to the contract has a relationship of borrower or depositor, debtor, or creditor.

(b) An officer or employee shall not be deemed to be interested in a contract made pursuant to competitive bidding under a procedure established by law if his or her sole interest is that of an officer, director, or employee of a bank or savings and loan association with which a party to the contract has the relationship of borrower or depositor, debtor or creditor.

§ 1097. Penalty for violations

Every officer or person prohibited by the laws of this state from making or being interested in contracts, or from becoming a vendor or purchaser at sales, or from purchasing scrip, or other evidences of indebtedness, including any member of the governing board of a school district, who willfully violates any of the provisions of such laws, is punishable by a fine of not more than one thousand dollars ($1,000), or by imprisonment in the state prison, and is forever disqualified from holding any office in this state.

THE CALIFORNIA POLITICAL REFORM ACT
(Government Code Section 87100, et seq.)

GOVERNMENT CODE
TITLE 9. POLITICAL REFORM
CHAPTER 7. CONFLICTS OF INTEREST

§ 87100. Public officials; state and local; financial interest

No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.

§ 87100.1. Financial interests in governmental decisions; registered professional engineers or licensed land surveyors rendering professional services as consultants

(a) A registered professional engineer or licensed land surveyor who renders professional services as a consultant to a state or local government, either directly or through a firm in which he or she is employed or is a principal, does not have a financial interest in a governmental decision pursuant to Section 87100 where the consultant renders professional engineering or land surveying services independently of the control and direction of the public agency and does not exercise public agency decisionmaking authority as a contract city or county engineer or surveyor.
(b) For purposes of this section, the consultant renders professional engineering or land surveying services independently of the control and direction of the public agency when the consultant is in responsible charge of the work pursuant to Section 6703 or 8703 of the Business and Professions Code.
(c) Subdivision (a) does not apply to that portion of the work that constitutes the recommendation of the actual formula to spread the costs of an assessment district's improvements if both of the following apply:
(1) The engineer has received income of two hundred fifty dollars ($250) or more for professional services in connection with any parcel included in the benefit assessment district within 12 months prior to the creation of the district.
(2) The district includes other parcels in addition to those parcels for which the engineer received the income.
The recommendation of the actual formula does not include preliminary site studies, preliminary engineering, plans, specifications, estimates, compliance with environmental laws and regulations, or the collection of data and information, utilized in applying the formula.

§ 87103. Financial interest in decision by public official

A public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of his or her immediate family, or on any of the following:
(a) Any business entity in which the public official has a direct or indirect investment worth one thousand dollars ($1,000) or more.
(b) Any real property in which the public official has a direct or indirect interest worth one thousand dollars ($1,000) or more.
(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars ($250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.
(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars ($250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made. The amount of the value of gifts specified by this subdivision shall be adjusted biennially by the commission to equal the same amount determined by the commission pursuant to subdivision (f) of Section 89503.
For purposes of this section, indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, or by a business entity or trust in which the official, the official's agents, spouse, and dependent children own directly, indirectly, or beneficially a 10-percent interest or greater.

§ 87103.5. Retail customer of business entity doing retail business

Notwithstanding subdivision (c) of Section 87103, a retail customer of a business entity engaged in retail sales of goods or services to the public generally is not a source of income to an official who owns a 10-percent or greater interest in the entity if the retail customers of the business entity constitute a significant segment of the public generally, and the amount of income received by the business entity from the customer is not distinguishable from the amount of income received from its other retail customers.

§ 87103.6. Persons retained or employed by state or local governmental agencies; payments made to defray costs to process applications, approvals, or other actions

Notwithstanding subdivision (c) of Section 87103, any person who makes a payment to a state agency or local government agency to defray the estimated reasonable costs to process any application, approval, or any other action, including but not limited to, holding public hearings and evaluating or preparing any report or document, shall not by reason of the payments be a source of income to a person who is retained or employed by the agency.

* * *

§ 87460. Elected state officers or local government agency officers; receipt of personal loans; statement of economic interests; filing; application of section

(a) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the elected officer holds office or over which the elected officer's agency has direction and control.
(b) No public official who is required to file a statement of economic interests pursuant to Section 87200 and no public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of > Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the public official holds office or over which the public official's agency has direction and control. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.
(c) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made

or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status.
(d) No public official who is required to file a statement of economic interests pursuant to Section 87200 and no public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.
(e) This section shall not apply to the following:
(1) Loans made to the campaign committee of an elected officer or candidate for elective office.
(2) Loans made by a public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.
(3) Loans from a person which, in the aggregate, do not exceed two hundred fifty dollars ($250) at any given time.
(4) Loans made, or offered in writing, before the operative date of this section.

* * *

§ 91000. Violations; fines; limitations; commission jurisdiction

(a) Any person who knowingly or willfully violates any provision of this title is guilty of a misdemeanor.
(b) In addition to other penalties provided by law, a fine of up to the greater of ten thousand dollars ($10,000) or three times the amount the person failed to report properly or unlawfully contributed, expended, gave or received may be imposed upon conviction for each violation.
(c) Prosecution for violation of this title must be commenced within four years after the date on which the violation occurred.
(d) The commission has concurrent jurisdiction in enforcing the criminal misdemeanor provisions of this title.

§ 91000.5. Administrative actions; commencement more than five years after date of violation; tolling of period

No administrative action brought pursuant to Chapter 3 (commencing with Section 83100) alleging a violation of any of the provisions of this title shall be commenced more than five years after the date on which the violation occurred.
(a) The service of the probable cause hearing notice, as required by Section 83115.5, upon the person alleged to have violated this title shall constitute the commencement of the administrative action.
(b) If the person alleged to have violated this title engages in the fraudulent concealment of his or her acts or identity, the five-year period shall be tolled for the period of the concealment. For purposes of this subdivision, "fraudulent concealment" means the person knows of material facts related to his or her duties under this title and knowingly conceals them in performing or omitting to perform those duties, for the purpose of defrauding the public of information to which it is entitled under this title.
(c) If, upon being ordered by a superior court to produce any documents sought by a subpoena in any administrative proceeding under Chapter 3 (commencing with Section 83100), the person

alleged to have violated this title fails to produce documents in response to the order by the date ordered to comply therewith, the five-year period shall be tolled for the period of the delay from the date of filing of the motion to compel until the date the documents are produced.

§ 91003. Injunctions; conflicts of interest

(a) Any person residing in the jurisdiction may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this title. The court may in its discretion require any plaintiff other than the commission to file a complaint with the commission prior to seeking injunctive relief. The court may award to a plaintiff or defendant who prevails his costs of litigation, including reasonable attorney's fees.
(b) Upon a preliminary showing in an action brought by a person residing in the jurisdiction that a violation of Article 1 (commencing with Section 87100), Article 4 (commencing with Section 87400), or Article 4.5 (commencing with Section 87450) of Chapter 7 of this title or of a disqualification provision of a Conflict of Interest Code has occurred, the court may restrain the execution of any official action in relation to which such a violation occurred, pending final adjudication. If it is ultimately determined that a violation has occurred and that the official action might not otherwise have been taken or approved, the court may set the official action aside as void. The official actions covered by this subsection include, but are not limited to orders, permits, resolutions and contracts, but do not include the enactment of any state legislation. In considering the granting of preliminary or permanent relief under this subsection, the court shall accord due weight to any injury that may be suffered by innocent persons relying on the official action.

§ 91003.5. Conflicts of interest; discipline

Any person who violates a provision of Article 2 (commencing with Section 87200), 3 (commencing with Section 87300), or 4.5 (commencing with Section 87450) of Chapter 7 is subject to discipline by his or her agency, including dismissal, consistent with any applicable civil service or other personnel laws,

§ 91004. Reporting requirements; violations; civil liability

Any person who intentionally or negligently violates any of the reporting requirements of this act, or who aids and abets any person who violates any of the reporting requirements of this act, shall be liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount not more than the amount or value not properly reported.

§ 91005. Violations; civil; liability

(a) Any person who makes or receives a contribution, gift or expenditure in violation of Section 84300, 84304, 86203, or 86204 is liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount up to five hundred dollars ($500) or three times the amount of the unlawful contribution, gift or expenditure, whichever is greater.
(b) Any designated employee or public official specified in Section 87200, other than an elected state officer, who realizes an economic benefit as a result of a violation of Section 87100 or of a disqualification provision of a conflict of interest code is liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount up to three times the value of the benefit.

§ 91005.5. Civil liability for violations

Any person who violates any provision of this title, except Sections 84305, 84307, and 89001, for which no specific civil penalty is provided, shall be liable in a civil action brought by the

commission or the district attorney pursuant to subdivision (b) of Section 91001, or the elected city attorney pursuant to Section 91001.5, for an amount up to five thousand dollars ($5,000) per violation.

No civil action alleging a violation of this title may be filed against a person pursuant to this section if the criminal prosecutor is maintaining a criminal action against that person pursuant to Section 91000.

The provisions of this section shall be applicable only as to violations occurring after the effective date of this section.

§ 91006. Violation or causing or aiding and abetting violation; liability under Fair Political Practices Commission provisions; joint and several liability

Any person who violates any provision of this title, who purposely or negligently causes any other person to violate any provision of this title, or who aids and abets any other person in the violation of any provision of this title, shall be liable under the provisions of this chapter and Chapter 3 (commencing with Section 83100) of this title. If two or more persons are responsible for any violation, they shall be jointly and severally liable.

§ 91007. Civil actions; request to civil prosecutor to commence action; procedure; initial pleadings; dismissal

(a) Any person, before filing a civil action pursuant to Sections 91004 and 91005, must first file with the civil prosecutor a written request for the civil prosecutor to commence the action. The request shall include a statement of the grounds for believing a cause of action exists. The civil prosecutor shall respond within forty days after receipt of the request, indicating whether he intends to file a civil action. If the civil prosecutor indicates in the affirmative, and files suit within forty days thereafter, no other action may be brought unless the action brought by the civil prosecutor is dismissed without prejudice as provided for in Section 91008.

(b) Any person filing a complaint, cross-complaint or other initial pleading in a civil action pursuant to Sections 91003, 91004, 91005, or 91005.5 shall, within 10 days of filing the complaint, cross-complaint, or initial pleading, serve on the Fair Political Practices Commission a copy of the complaint, cross-complaint, or initial pleading or a notice containing all of the following:

(1) The full title and number of the case.

(2) The court in which the case is pending.

(3) The name and address of the attorney for the person filing the complaint, cross-complaint, or other initial pleading.

(4) A statement that the case raises issues under the Political Reform Act.

(c) No complaint, cross-complaint, or other initial pleading shall be dismissed for failure to comply with subdivision (b).

§ 91008. Judgment on the merits; precedence; dismissal

Not more than one judgment on the merits with respect to any violation may be obtained under Sections 91004 and 91005. Actions brought for the same violation or violations shall have precedence for purposes of trial in order of the time filed. Such actions shall be dismissed once judgment has been entered or a settlement approved by the court in a previously filed action. The court may dismiss a pending action without prejudice to any other action for failure of the plaintiff to proceed diligently and in good faith. The action may be so dismissed on motion of the civil prosecutor or any plaintiff in an action based on the same violation.

§ 91008.5. Civil actions; no filing when order issued for same violation

No civil action may be filed under Section 91004, 91005, or 91005.5 with regard to any person for any violations of this title after the commission has issued an order pursuant to Section 83116 against that person for the same violation.

§ 91009. Amount of liability; seriousness of violation and degree of culpability; disposition of recovery

In determining the amount of liability under Sections 91004 or 91005, the court may take into account the seriousness of the violation and the degree of culpability of the defendant. If a judgment is entered against the defendant or defendants in an action brought under Section 91004 or 91005, the plaintiff shall receive fifty percent of the amount recovered. The remaining fifty percent shall be deposited in the General Fund of the state. In an action brought by the civil prosecutor, the entire amount recovered shall be paid to the general fund or treasury of the jurisdiction.

§ 91011. Limitations

(a) No civil action alleging a violation in connection with a report or statement required by Chapter 4 (commencing with Section 84100) of this title shall be filed more than four years after an audit could begin as set forth in subdivision (c) of Section 90002.
(b) No civil action alleging a violation of any provisions of this title, other than those described in subdivision (a), shall be filed more than four years after the date the violation occurred.

§ 91013. Late filing of statement or report; fees; penalties; deposit of funds received

(a) If any person files an original statement or report after any deadline imposed by this act, he or she shall, in addition to any other penalties or remedies established by this act, be liable in the amount of ten dollars ($10) per day after the deadline until the statement or report is filed, to the officer with whom the statement or report is required to be filed. Liability need not be enforced by the filing officer if on an impartial basis he or she determines that the late filing was not willful and that enforcement of the liability will not further the purposes of the act, except that no liability shall be waived if a statement or report is not filed within 30 days for a statement of economic interest, other than a candidate's statement filed pursuant to Section 87201, five days for a campaign statement required to be filed 12 days before an election, and 10 days for all other statements or reports, after the filing officer has sent specific written notice of the filing requirement.
(b) If any person files a copy of a statement or report after any deadline imposed by this act, he or she shall, in addition to any other penalties or remedies established by this chapter, be liable in the amount of ten dollars ($10) per day, starting 10 days, or five days in the case of a campaign statement required to be filed 12 days before an election, after the officer has sent specific written notice of the filing requirement and until the statement is filed.
(c) The officer shall deposit any funds received under this section into the general fund of the jurisdiction of which he or she is an officer. No liability under this section shall exceed the cumulative amount stated in the late statement or report, or one hundred dollars ($100), whichever is greater.

§ 91013.5. Civil actions to collect unpaid monetary penalties, fees, or civil penalties

In addition to any other available remedies, the commission or the filing officer may bring a civil action and obtain a judgment in small claims, municipal, or superior court, depending on the jurisdictional amount, for the purpose of collecting any unpaid monetary penalties, fees, or civil penalties imposed pursuant to this title. The venue for this action shall be in the county where the monetary penalties, fees, or civil penalties were imposed by the commission or the filing officer.

In order to obtain a judgment in a proceeding under this section, the commission or filing officer shall show, following the procedures and rules of evidence as applied in ordinary civil actions, all of the following: (a) That the monetary penalties, fees, or civil penalties were imposed following the procedures set forth in this title and implementing regulations. (b) That the defendant or defendants in the action were notified, by actual or constructive notice, of the imposition of the monetary penalties, fees, or civil penalties.
(c) That a demand for payment has been made by the commission or the filing officer and full payment has not been received regulations, and procedures.

THE SAN FRANCSICO CHARTER
(Appendix C, Section C8.105)

C8.105 CONFLICT OF INTEREST AND OTHER PROHIBITED PRACTICES

(a) No officer or employee of the city and county shall become directly or indirectly interested in any contract, franchise, right privilege or sale or lease of property awarded, entered into or authorized by him or her in his or her capacity as an officer or employee, or by an officer or employee under his or her supervision and control, or by a board or commission of which he or she is a member, unless same is devolved upon him or her by law. An officer or employee with such an interest, however acquired, shall become divested of said interest within 60 days or shall resign said office or employment.

(b) No officer or employee shall give or promise any money or other valuable thing in consideration of his or her nomination, appointment, or election to any city and county office or employment or accept, other than lawful political campaign contributions, any gratuity in money or other valuable thing, either directly or indirectly, from any subordinate or employee or from any candidate or applicant for a position as employee or subordinate under him or her.

(c) No officer or employee shall make, participate in making or in any way attempt to use his or her office or employment to influence a governmental decision in which he or she knows or has reason to know he or she has a financial interest, as defined by California Government Code Section 87103.

(d) No officer or employee of the city and county shall wilfully or knowingly disclose any privileged information concerning property, government, or affairs of the city and county, unless a duty to do so is imposed upon said person by law, nor shall that person use any privileged information obtained by him or her by virtue of his or her office or employment to advance the financial or other private interest of himself or herself or others.

(e) No person who has served as an officer or employee of the city and county shall within a period of two years after termination of such service or employment appear before the board or agency of the city and county of which he or she was a member in order to represent any private interest, provided, however, that said officer or employee may appear before said board for the purpose of representing himself or herself.

(f) No officer or employee of the city and county shall receive, directly or indirectly, any compensation, reward or gift from any source except compensation from the City and County of San Francisco, or any other governmental agency to which he or she has been duly appointed for any service, advice, assistance or other matter related to the governmental processes of the city and county, except for fees for speeches or published writing.

(g) The ethics commission with respect to officers and employees whose positions are subject to the civil service provisions of the charter other than officers and members of the fire and police departments, the fire commission with respect to officers and members of the fire department and the police commission with respect to officers and members of the police department, are each empowered to prescribe and enforce such reasonable rules and regulations as each commission deems necessary to effectuate the purposes and intent of this section. Such rules and regulations may provide for restrictions against activities, employments and enterprises other than those described or mentioned herein when such restrictions are found necessary for the preservation of the honor or integrity of the city and county. Rules and regulations previously adopted or approved by the civil service pursuant to this section shall remain in effect until amended by the ethics commission.

The civil service commission with respect to officers and employees whose positions are subject to the civil service provisions of the charter other than officers and members of the fire and police departments, the fire commission with respect to officers and members of the fire department and the police commission with respect to officers and members of the police department, are each empowered to prescribe and enforce such reasonable rules and regulations as each commission deems necessary to provide for the efficiency of the city and county civil service.

(h) An officer or employee shall not be deemed to be interested in any transaction described in Subsections (a) or (c) above if he or she has only a remote interest in the transaction and if the fact of such interest is disclosed and noted in the official records of the board, commission or department and thereafter the board, commission or department authorizes, approves, or ratifies the transaction in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer or member with the remote interest or by his or her immediate superior unless the transaction must be awarded to the highest or lowest responsible bidder as the case may be on a particular day and the vote of such officer or member is necessary to a quorum on that day.

(1) As used in this article "remote interest" means:

(A) That of a nonsalaried officer of a nonprofit corporation;

(B) That of an employee or agent of the party involved in the transaction, if such party has 10 or more other employees and if the officer or employee was an employee or agent of said party for at least three years prior to his or her initially accepting his or her office or employment.

For the purposes of this subsection, time of employment with the party by the officer or employee shall be counted in computing the three-year period specified in this subsection even though such party has been converted from one form of business organization to a different form of business organization within three years of the initial taking of office by such officer. Time of employment in such case shall be counted only if, after the transfer or change in organization, the real or ultimate ownership of the party is the same or substantially similar to that which existed before such transfer or change in organization. For the purposes of this subsection, stockholders, bondholders, partners, or other persons holding an interest in the contracting party are regarded as having the "real or ultimate ownership" of such party.

(C) That of a parent in the earnings of his or her minor child for personal services;

(D) That of a landlord or tenant of the transacting party;

(E) That of an attorney of the transacting party;

(F) That of a supplier of goods or services when such goods or services had been supplied to the transacting party by the officer or employee for at least five years prior to his or her election or appointment to office or employment;

(G) That of an officer, director, or employee of a bank, bank holding company, or savings and loan association with which a party to the transaction has the relationship of borrower or depositor, debtor or creditor.

(2) The provisions of this subsection shall not be applicable to any officer or employee interested in a transaction who influences or attempts to influence another officer or employee to enter into the transaction.

(i) An officer or employee shall not be deemed to be interested in a transaction pursuant to Subsections (a) and (c) above if his or her interest is:

(1) The ownership of less than three percent of the shares of a corporation for profit, provided the total annual income to him or her from dividends, including the value of stock dividends, from the corporation does not exceed five percent of his or her total annual income, and any other payments made to him or her by the corporation do not exceed five percent of his or her total annual income;

(2) That of an officer or employee in being reimbursed for his or her actual and necessary expenses incurred in the performance of official duty;

(3) That of a recipient of public services generally provided by the board, commission or department of which he or she is a member or employee, on the same terms and conditions as if he or she were not a member or employee of the board, commission or department.

(4) That of a landlord or tenant of the transacting party if such party is the federal government or any federal department or agency, this state or an adjoining state, any department or agency of this state or an adjoining state, any county or city of this state or an adjoining state, or any public corporation or special, judicial, or other public district of this state or an adjoining state unless the subject matter of such transaction is the property in which such officer or

employee has such interest as landlord or tenant in which event his or her interest shall be deemed a remote interest within the meaning and subject to the provisions of Subsection (g).

(5) That of a tenant in a public housing authority created pursuant to Part 2 (commencing with Section 34200) of Division 24 of the Health and Safety Code in which he or she serves as a member of the board of commissioners of the authority or of a community development commission created pursuant to Part 1.7 (commencing with Section 34100) of Division 24 of the Health and Safety Code.

(6) That of a spouse of an officer or employee in his or her spouse's employment or officeholding if his or her spouse's employment or officeholding has existed for at least one year prior to his or her election or appointment.

(7) That of a nonsalaried member of a nonprofit corporation, provided that such interest is disclosed at the time of the first consideration of the transaction and provided further that such interest is noted in its official records.

(8) An officer or employee shall not be deemed to be interested in a contract made pursuant to competitive bidding under a procedure established by law if his or her sole interest is that of an officer, director, or employee of a bank or savings and loan association with which a party to the contract has the relationship of a borrower or depositor, debtor or creditor.

(j) No member of any board or commission of the city and county shall knowingly vote on or in any way attempt to influence the outcome of governmental action on any measure or question involving his or her own character or conduct, his or her right as a member, or his or her appointment to any office, position, or employment, wherein the said member's financial interest is immediate, particular, and distinct from the public interest. The word "knowingly" as used in this paragraph shall mean actual or constructive knowledge of the existence of the interest which would disqualify the vote under the provisions of this section.

If under any provision of this charter or of any ordinance, resolution, rule or regulation, action on any measure or question must be taken on a particular day and such action cannot be taken by a qualified voting quorum of the board or commission on that day by reason for the disqualification from voting under the provisions of this section, said action may be postponed until, but not later than, there are sufficient qualified members present to vote and take action on said measure or question. The term "a qualified voting quorum" as used in this paragraph shall mean the presence of a sufficient number of qualified voting members of the board or commission to take either affirmative or negative action on the measure or question before the board or commission.

(k) The city attorney, the district attorney of the City and County of San Francisco or any resident or group of residents of the City and County of San Francisco may bring a suit in the superior court to compel compliance with the provisions of this section.

(l) The provisions of Section 8.105 shall not apply to any member serving as a representative of any profession, trade, business, union or association on any board, commission or other body heretofore or hereafter created by an ordinance of the City and County of San Francisco which requires that the membership consists in whole or in part of representatives of specific professions, trades, businesses, unions or associations. Conflicts of interest and prohibited practices of such members and the penalties therefor shall be as prescribed by the ordinance creating such board, commission or other body or by an amendment thereto.

(m) Any person violating any of the provisions of this section shall be guilty of a misdemeanor and, upon a final judgment of conviction of same, shall be removed from office or in the alternative shall be subject to a penalty of not more than one year in jail and/or fine of not more than $10,000, as well as removal.

(n) Every contract made in violation of any of the provisions of Section 8.105 may be avoided at the insistance of any party except the officer or employee interested therein. No such contract may be avoided because of the interest of an officer or employee therein unless such contract is made in the official capacity of such officer or employee, or by a board or body of which he or she is a member.

COMPENSATED ADVOCACY ORDINANCE[1]

Section 1. The People of the City and County of San Francisco desire and are entitled to a local government whose officers do not engage in, assist or promote compensated advocacy on behalf of private interests before City and County commissions and boards while also serving as City and County officers.

Section 2. No officer of the City and County may, during the term of office, engage in compensated advocacy before any City and County board or commission or any member of the board or commission or its staff in order to represent any private interest for which representation the officer receives directly or indirectly any compensation reward or gift.

Section 3. Officers of the City and County shall not discuss matters pending before their commission or department with other City and County officers or state legislator s when those other officers or state legislators are acting as compensated advocates for a private interest.

Section 4. No member of the California State Legislature shall appear before any City and County board, department or commission as a compensated advocate representing a private interest.

* * *

Section 6. Any person violating the terms of this ordinance shall be subject to the penalties set forth in San Francisco Charter Section 8.105. Such penalties shall include, but not be limited to, removal from office.

[1] Initiative Ordinance, adopted November 1986, reprinted in Appendix K, 1932 Charter.

CONTRACTS WITH MEMBERS OF BOARDS AND COMMISSIONS

(San Francisco Administrative Code Section 16.980)

SEC. 16.980. PROHIBITING MEMBERS OF BOARDS AND COMMISSIONS FROM CONTRACTING WITH THE CITY AND COUNTY. (a) **Findings.**

(1) City and County contracts should be, and should appear to be, awarded on a fair and impartial basis.

(2) The practice of members of Boards and Commissions of the City and County contracting with the City and County creates the potential for, and the appearance of, favoritism or preferential treatment by the City and County.

(3) Prohibiting members of Boards and Commissions of the City and County from contracting with the City and County will eliminate both actual and perceived favoritism or preferential treatment without creating unnecessary barriers to public service.

(b) **Definitions.** For purposes of this Section, the following definitions shall apply:

(1) Board or Commission. The term "Board or Commission" means an appointed Board or Commission created by Charter or ordinance of the City and County, at least one of the members of which is required to be appointed by the Mayor, but does not include advisory Boards or Commissions.

(2) Business. The term "business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, or other legal entity or undertaking organized for economic gain.

(3) City and County. The term "City and County" includes any Commission, Board, Department, agency, committee, or other organizational unit, excluding advisory bodies, of the City and County of San Francisco.

(4) Contract. The term "contract" means any agreement to which the City and County is a party, other than a grant funded in whole or in part by the City and County or an agreement for employment with the City and County in exchange for salary and benefits.

(5) Subcontract. The term "subcontract" means a contract to perform more than 25 percent of the work that a primary contractor has an agreement with the City and County to perform.

(c) **Prohibition.** No member of a Board or Commission of the City and County shall, during his or her term of office, contract or subcontract with the City and County, the San Francisco Redevelopment Agency, the San Francisco Housing Authority, the San Francisco Unified School District, or the San Francisco Community College District, where the amount of the contract or the subcontract exceeds $10,000.

(d) **Exceptions.** This Section shall not apply to the following contracts or subcontracts:

(1) A contract or subcontract with a nonprofit organization;

(2) A contract or subcontract with a business with which a member of a Board or Commission is affiliated unless the member exercises management and control over the business. A member exercises management and control if he or she is:

(A) An officer or director of a corporation;

(B) A majority shareholder of a closely held corporation;

(C) A shareholder with more than five percent beneficial interest in a publicly traded corporation;

(D) A general partner or limited partner with more than 20 percent beneficial interest in the partnership; or

(E) A general partner regardless of percentage of beneficial interest and who occupies a position of, or exercises management or control of the business;

(3) An existing contract or subcontract with the City and County approved by the Board of Supervisors or an agreement to provide property, goods or services to the City and County at substantially below fair market value.

(e) **Effective Date.** This ordinance shall take effect on January 15, 1997.

(f) **Penalties.** Violation of any provision of this Section shall constitute official

misconduct.

(g) **Severability.** If any subsection, sentence, clause, phrase, or word of this Section be for any reason declared unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or the effectiveness of the remaining portions of this Section or any part of this Section. The Board of Supervisors hereby declares that it would have adopted this Section notwithstanding the unconstitutionality, invalidity or ineffectiveness of any one or more of its subsections, sentences, clauses, phrases, or words.

(h) **Limitation.** Failure of a member of a Board or Commission to comply with this Section shall not be grounds for invalidating any contract with the City and County. (Added by Ord. 374-96, App. 9/30/96)

AMERICANS WITH DISABILITIES ACT NOTICE PROVISION
(25 C.F.R. §35.106)

REGULATION §35.106 NOTICE.

A public entity shall make available to applicants, participants, beneficiaries, and other interested persons information regarding the provisions of this part and its applicability to the services, programs, or activities of the public entity, and make such information available to them in such manner as the head of the entity finds necessary to apprise such persons of the protections against discrimination assured the by the [Americans With Disabilities] Act and this part.

THE CALIFORNIA PUBLIC RECORDS ACT
(Government Code Sections 6250 et seq.)

GOVERNMENT CODE
TITLE 1. GENERAL
DIVISION 7. MISCELLANEOUS
CHAPTER 3.5. INSPECTION OF PUBLIC RECORDS

ARTICLE 1. GENERAL PROVISIONS

§ 6250. Legislative findings and declarations

In enacting this chapter, the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state.

§ 6251. Short title

This chapter shall be known and may be cited as the California Public Records Act.

§ 6252. Definitions

As used in this chapter:

(a) "State agency" means every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.

(b) "Local agency" includes a county; city, whether general law or chartered; city and county; school district; municipal corporation; district; political subdivision; or any board, commission or agency thereof; other local public agency; or nonprofit entities that are legislative bodies of a local agency pursuant to subdivisions (c) and (d) of Section 54952.

(c) "Person" includes any natural person, corporation, partnership, limited liability company, firm, or association.

(d) "Public agency" means any state or local agency.

(e) "Public records" includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. "Public records" in the custody of, or maintained by, the Governor's office means any writing prepared on or after January 6, 1975.

(f) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

(g) "Member of the public" means any person, except a member, agent, officer, or employee of a federal, state, or local agency acting within the scope of his or her membership, agency, office, or employment.
California Limited Liability Company Act.

§ 6252.5. Elected member or officer of state or local agency

Notwithstanding the definition of "member of the public" in Section 6252, an elected member or officer of any state or local agency is entitled to access to public records of that agency on the same basis as any other person. Nothing in this section shall limit the ability of elected members or officers to access public records permitted by law in the administration of their duties.

This section does not constitute a change in, but is declaratory of, existing law.

§ 6253. Public records open to inspection; agency duties; time limits

(a) Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. Any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after

deletion of the portions that are exempted by law.

(b) Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person, upon payment of fees covering direct costs of duplication, or a statutory fee, if applicable. Upon request, an exact copy shall be provided unless impracticable to do so. Computer data shall be provided in a form determined by the agency.

(c) Each agency, upon a request for a copy of records shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor. In unusual circumstances, the time limit prescribed in this section may be extended by written notice by the head of the agency or his or her designee to the person making the request setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No notice shall specify a date that would result in an extension for more than 14 days. As used in this section, "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular request:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request.

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

(d) Nothing in this chapter shall be construed to permit an agency to obstruct the inspection or copying of public records. Any notification of denial of any request for records shall set forth the names and titles or positions of each person responsible for the denial.

(e) Except as otherwise prohibited by law, a state or local agency may adopt requirements for itself that allow for faster, more efficient, or greater access to records than prescribed by the minimum standards set forth in this chapter.

§ 6253.1. Repealed by Stats.1998, c. 620 (S.B.143), § 6

§ 6253.4. Agency regulations and guidelines

(a) Every agency may adopt regulations stating the procedures to be followed when making its records available in accordance with this section.

The following state and local bodies shall establish written guidelines for accessibility of records. A copy of these guidelines shall be posted in a conspicuous public place at the offices of these bodies, and a copy of the guidelines shall be available upon request free of charge to any person requesting that body's records:

Department of Motor Vehicles
Department of Consumer Affairs
Department of Transportation
Department of Real Estate
Department of Corrections
Department of the Youth Authority
Department of Justice
Department of Insurance
Department of Corporations
Secretary of State

State Air Resources Board
Department of Water Resources
Department of Parks and Recreation
San Francisco Bay Conservation and Development Commission
State Board of Equalization
State Department of Health Services
Employment Development Department
State Department of Social Services
State Department of Mental Health
State Department of Developmental Services
State Department of Alcohol and Drug Abuse
Office of Statewide Health Planning and Development
Public Employees' Retirement System
Teachers' Retirement Board
Department of Industrial Relations
Department of General Services
Department of Veterans Affairs
Public Utilities Commission
California Coastal Commission
State Water Resources Control Board
San Francisco Bay Area Rapid Transit District
All regional water quality control boards
Los Angeles County Air Pollution Control District
Bay Area Air Pollution Control District
Golden Gate Bridge, Highway and Transportation District
Department of Toxic Substances Control
Office of Environmental Health Hazard Assessment

(b) Guidelines and regulations adopted pursuant to this section shall be consistent with all other sections of this chapter and shall reflect the intention of the Legislature to make the records accessible to the public. The guidelines and regulations adopted pursuant to this section shall not operate to limit the hours public records are open for inspection as prescribed in Section 6253.

§ 6253.5. Initiative, referendum, recall petitions, and petitions for reorganization of school districts or community college districts deemed not public records; examination by proponents

Notwithstanding Sections 6252 and 6253, statewide, county, city, and district initiative, referendum, and recall petitions, petitions circulated pursuant to Section 5091 of the Education Code, petitions for the reorganization of school districts submitted pursuant to Article 1 (commencing with Section 35700) of Chapter 4 of Part 21 of the Education Code, petitions for the reorganization of community college districts submitted pursuant to Part 46 (commencing with Section 74000) of the Education Code and all memoranda prepared by the county elections officials in the examination of the petitions indicating which registered voters have signed particular petitions shall not be deemed to be public records and shall not be open to inspection except by the public officer or public employees who have the duty of receiving, examining or preserving the petitions or who are responsible for the preparation of that memoranda and, if the petition is found to be insufficient, by the proponents of the petition and the representatives of the proponents as may be designated by the proponents in writing in order to determine which signatures were disqualified and the reasons therefor. However, the Attorney General, the Secretary of State, the Fair Political Practices Commission, a district attorney, a school district or a community college district attorney, and a city attorney

shall be permitted to examine the material upon approval of the appropriate superior court.

If the proponents of a petition are permitted to examine the petition and memoranda, the examination shall commence not later than 21 days after certification of insufficiency.

(a) As used in this section, "petition" shall mean any petition to which a registered voter has affixed his or her signature.

(b) As used in this section "proponents of the petition" means the following:

(1) For statewide initiative and referendum measures, the person or persons who submit a draft of a petition proposing the measure to the Attorney General with a request that he or she prepare a title and summary of the chief purpose and points of the proposed measure.

(2) For other initiative and referenda on measures, the person or persons who publish a notice of intention to circulate petitions, or, where publication is not required, who file petitions with the elections official.

(3) For recall measures, the person or persons defined in Section 343 of the Elections Code.

(4) For petitions circulated pursuant to Section 5091 of the Education Code, the person or persons having charge of the petition who submit the petition to the county superintendent of schools.

(5) For petitions circulated pursuant to Article 1 (commencing with Section 35700) of Chapter 4 of Part 21 of the Education Code, the person or persons designated as chief petitioners under Section 35701 of the Education Code.

(6) For petitions circulated pursuant to Part 46 (commencing with Section 74000) of the Education Code, the person or persons designated as chief petitioners under Sections 74102, 74133, and 74152 of the Education Code.

§ 6253.6. Bilingual ballot or ballot pamphlet requests not deemed public records

(a) Notwithstanding the provisions of Sections 6252 and 6253, information compiled by public officers or public employees revealing the identity of persons who have requested bilingual ballots or ballot pamphlets, made in accordance with any federal or state law, or other data that would reveal the identity of the requester, shall not be deemed to be public records and shall not be provided to any person other than public officers or public employees who are responsible for receiving those requests and processing the same.

(b) Nothing contained in subdivision (a) shall be construed as prohibiting any person who is otherwise authorized by law from examining election materials, including, but not limited to, affidavits of registration, provided that requests for bilingual ballots or ballot pamphlets shall be subject to the restrictions contained in subdivision (a).

§ 6253.7. Contracts for gas transmission and storage; exemption; considerations

(a) Notwithstanding any other provision of law, a local agency may, by rule or order, exempt partially or completely from any requirement to make available for public inspection any contracts negotiated by the local agency to provide gas transmission or storage services, if the local agency finds that the exemption is in the public interest. In determining whether to grant an exemption, the local agency may consider factors including, but not limited to, customers' interests in confidentiality and shall require a level of disclosure that is comparable to that which is required by federal or state law for competitors.

(b) This section shall remain in effect only until January 1, 2001, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2001, deletes or extends that date.

§ 6254. Exemption of particular records

Except as provided in Sections 6254.7 and 6254.13, nothing in this chapter shall be construed to require disclosure of records that are any of the following:

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding those

records clearly outweighs the public interest in disclosure.

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810), until the pending litigation or claim has been finally adjudicated or otherwise settled.

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(d) Contained in or related to:

(1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies.

(2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(3) Preliminary drafts, notes, or interagency or intra-agency communications prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(4) Information received in confidence by any state agency referred to in paragraph (1).

(e) Geological and geophysical data, plant production data, and similar information relating to utility systems development, or market or crop reports, which are obtained in confidence from any person.

(f) Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes, except that state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism, vehicle theft, or a crime as defined by subdivision (c) of Section 13960, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation. However, nothing in this division shall require the disclosure of that portion of those investigative files that reflect the analysis or conclusions of the investigating officer.

Other provisions of this subdivision notwithstanding, state and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation:

(1) The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

(2) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date, and location of occurrence, the time and date of the report,

the name and age of the victim, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved. The name of a victim of any crime defined by Section 220, 261, 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor. When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined by Section 220, 261, 262, 264, 264.1, 273a, 273d, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code may be deleted at the request of the victim, or the victim's parent or guardian if the victim is a minor, in making the report of the crime, or of any crime or incident accompanying the crime, available to the public in compliance with the requirements of this paragraph.

(3) Subject to the restrictions of Section 841.5 of the Penal Code and this subdivision, the current address of every individual arrested by the agency and the current address of the victim of a crime, where the requester declares under penalty of perjury that the request is made for a scholarly, journalistic, political, or governmental purpose, or that the request is made for investigation purposes by a licensed private investigator as described in Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code, except that the address of the victim of any crime defined by Section 220, 261, 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code shall remain confidential. Address information obtained pursuant to this paragraph shall not be used directly or indirectly to sell a product or service to any individual or group of individuals, and the requester shall execute a declaration to that effect under penalty of perjury.

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of the Education Code.

(h) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. However, the law of eminent domain shall not be affected by this provision.

(i) Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information.

(j) Library circulation records kept for the purpose of identifying the borrower of items available in libraries, and library and museum materials made or acquired and presented solely for reference or exhibition purposes. The exemption in this subdivision shall not apply to records of fines imposed on the borrowers.

(k) Records the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

(l) Correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's legal affairs secretary, provided that public records shall not be transferred to the custody of the Governor's legal affairs secretary to evade the disclosure provisions of this chapter.

(m) In the custody of or maintained by the Legislative Counsel, except those records in the public data base maintained by the Legislative Counsel that are described in Section 10248.

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with the licensing agency to establish his or her personal qualification for the license, certificate, or permit applied for.

(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, where an authorized officer of the California Pollution Control Financing Authority determines that disclosure of the financial data would be competitively injurious to the applicant and the data is required in order to obtain guarantees from the United States Small Business Administration. The California Pollution Control Financing Authority shall adopt rules for review of individual

requests for confidentiality under this section and for making available to the public those portions of an application which are subject to disclosure under this chapter.

(p) Records of state agencies related to activities governed by Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), and Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, that reveal a state agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or that provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under these chapters. Nothing in this subdivision shall be construed to limit the disclosure duties of a state agency with respect to any other records relating to the activities governed by the employee relations acts referred to in this subdivision.

(q) Records of state agencies related to activities governed by Articles 2.6 (commencing with Section 14081), 2.8 (commencing with Section 14087.5), and 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, that reveal the special negotiator's deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or that provide instruction, advice, or training to employees.

Except for the portion of a contract containing the rates of payment, contracts for inpatient services entered into pursuant to these articles, on or after April 1, 1984, shall be open to inspection one year after they are fully executed. In the event that a contract for inpatient services that is entered into prior to April 1, 1984, is amended on or after April 1, 1984, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after it is fully executed. If the California Medical Assistance Commission enters into contracts with health care providers for other than inpatient hospital services, those contracts shall be open to inspection one year after they are fully executed.

Three years after a contract or amendment is open to inspection under this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

Notwithstanding any other provision of law, the entire contract or amendment shall be open to inspection by the Joint Legislative Audit Committee. The Joint Legislative Audit Committee shall maintain the confidentiality of the contracts and amendments until the time a contract or amendment is fully open to inspection by the public.

(r) Records of Native American graves, cemeteries, and sacred places maintained by the Native American Heritage Commission.

(s) A final accreditation report of the Joint Commission on Accreditation of Hospitals that has been transmitted to the State Department of Health Services pursuant to subdivision (b) of Section 1282 of the Health and Safety Code.

(t) Records of a local hospital district, formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code, or the records of a municipal hospital, formed pursuant to Article 7 (commencing with Section 37600) or Article 8 (commencing with Section 37650) of Chapter 5 of Division 3 of Title 4 of this code, that relate to any contract with an insurer or nonprofit hospital service plan for inpatient or outpatient services for alternative rates pursuant to Section 10133 or 11512 of the Insurance Code. However, the record shall be open to inspection within one year after the contract is fully executed.

(u)(1) Information contained in applications for licenses to carry firearms issued pursuant to Section 12050 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department that indicates when or where the applicant is vulnerable to attack or that concerns the applicant's medical or psychological history or that of members of his or her family.

(2) The home address and telephone number of peace officers, judges, court commissioners, and magistrates that are set forth in applications for licenses to carry firearms issued pursuant to Section 12050 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(3) The home address and telephone number of peace officers, judges, court commissioners, and magistrates that are set forth in licenses to carry firearms issued pursuant to Section 12050 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(v)(1) Records of the Major Risk Medical Insurance Program related to activities governed by Part 6.3 (commencing with Section 12695), and Part 6.5 (commencing with Section 12700), of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2)(A) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Part 6.3 (commencing with Section 12695), or Part 6.5 (commencing with Section 12700), of Division 2 of the Insurance Code, on or after July 1, 1991, shall be open to inspection one year after they have been fully executed.

(B) In the event that a contract for health coverage that is entered into prior to July 1, 1991, is amended on or after July 1, 1991, the amendment, except for any portion containing the rates of payment shall be open to inspection one year after the amendment has been fully executed.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The Joint Legislative Audit Committee shall maintain the confidentiality of the contracts and amendments thereto, until the contract or amendments to a contract is open to inspection pursuant to paragraph (3).

(w)(1) Records of the Major Risk Medical Insurance Program related to activities governed by Chapter 14 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Chapter 14 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, on or after January 1, 1993, shall be open to inspection one year after they have been fully executed.

(3) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The Joint Legislative Audit Committee shall maintain the confidentiality of the contracts and amendments thereto, until the contract or amendments to a contract is open to inspection pursuant to paragraph (2).

(x) Financial data contained in applications for registration, or registration renewal, as a service contractor filed with the Director of the Department of Consumer Affairs pursuant to Chapter 20 (commencing with Section 9800) of Division 3 of the Business and Professions Code, for the purpose of establishing the service contractor's net worth, or, financial data regarding the funded accounts held in escrow for service contracts held in force in this state by a service contractor.

(y)(1) Records of the Managed Risk Medical Insurance Board related to activities governed by Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2)(A) Except for the portion of a contract that contains the rates of payment, contracts entered into pursuant to Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code, on or after January 1, 1998, shall be open to inspection one year after they have been fully executed.

(B) In the event that a contract entered into pursuant to Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code is amended, the amendment shall be open to inspection one year after the amendment has been fully executed.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The Joint Legislative Audit Committee shall maintain the confidentiality of the contracts and amendments thereto until the contract or amendments to a contract are open to inspection pursuant to paragraph (2) or (3).

(z) Records obtained pursuant to paragraph (2) of subdivision (c) of Section 2891.1 of the Public Utilities Code.

Nothing in this section prevents any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.

Nothing in this section prevents any health facility from disclosing to a certified bargaining agent relevant financing information pursuant to Section 8 of the National Labor Relations Act.

§ 6254.1. Disclosure of residence, mailing address or results of test for competency to safely operate motor vehicle

(a) Except as provided in Section 6254.7, nothing in this chapter requires disclosure of records that are the residence address of any person contained in the records of the Department of Housing and Community Development, if the person has requested confidentiality of that information, in accordance with Section 18081 of the Health and Safety Code.

(b) Nothing in this chapter requires the disclosure of the residence or mailing address of any person in any record of the Department of Motor Vehicles except in accordance with Section 1808.21 of the Vehicle Code.

(c) Nothing in this chapter requires the disclosure of the results of a test undertaken pursuant to Section 12804.8 of the Vehicle Code.

§ 6254.2. Pesticide safety and efficacy information; public disclosure; limitations; procedures

(a) Nothing in this chapter exempts from public disclosure the same categories of pesticide safety and efficacy information that are disclosable under paragraph (1) of subsection (d) of Section 10 of the federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136h(d)(1)), if the individual requesting the information is not an officer, employee, or agent specified in subdivision (h) and signs the affirmation specified in subdivision (h).

(b) The Director of Pesticide Regulation, upon his or her initiative, or upon receipt of a request pursuant to this chapter for the release of data submitted and designated as a trade secret by a registrant or applicant, shall determine whether any or all of the data so submitted is a properly designated trade secret. In order to assure that the interested public has an opportunity to obtain and review pesticide safety and efficacy data and to comment prior to the expiration of the public comment period on a proposed pesticide registration, the director shall provide notice to interested persons when an application for registration enters the registration evaluation process.

(c) If the director determines that the data is not a trade secret, the director shall notify the registrant or applicant by certified mail.

(d) The registrant or applicant shall have 30 days after receipt of this notification to provide the director with a complete justification and statement of the grounds on which the trade secret privilege is claimed. This justification and statement shall be submitted by certified mail.

(e) The director shall determine whether the data is protected as a trade secret within 15 days after

receipt of the justification and statement or, if no justification and statement is filed, within 45 days of the original notice. The director shall notify the registrant or applicant and any party who has requested the data pursuant to this chapter of that determination by certified mail. If the director determines that the data is not protected as a trade secret, the final notice shall also specify a date, not sooner than 15 days after the date of mailing of the final notice, when the data shall be available to any person requesting information pursuant to subdivision (a).

(f) "Trade secret" means data that is nondisclosable under paragraph (1) of subsection (d) of Section 10 of the federal Insecticide, Fungicide, and Rodenticide Act.

(g) This section shall be operative only so long as, and to the extent that, enforcement of paragraph (1) of subsection (d) of Section 10 of the federal Insecticide, Fungicide, and Rodenticide Act has not been enjoined by federal court order, and shall become inoperative if an unappealable federal court judgment or decision becomes final that holds that paragraph invalid, to the extent of the invalidity.

(h) The director shall not knowingly disclose information submitted to the state by an applicant or registrant pursuant to Article 4 (commencing with Section 12811) of Chapter 2 of Division 7 of the Food and Agricultural Code to any officer, employee, or agent of any business or other entity engaged in the production, sale, or distribution of pesticides in countries other than the United States or in countries in addition to the United States, or to any other person who intends to deliver this information to any foreign or multi-national business or entity, unless the applicant or registrant consents to the disclosure. To implement this subdivision, the director shall require the following affirmation to be signed by the person who requests such information:

AFFIRMATION OF STATUS

This affirmation is required by Section 6254.2 of the Government Code.

I have requested access to information submitted to the Department of Pesticide Regulation (or previously submitted to the Department of Food and Agriculture) by a pesticide applicant or registrant pursuant to the California Food and Agricultural Code. I hereby affirm all of the following statements:

(1) I do not seek access to the information for purposes of delivering it or offering it for sale to any business or other entity, including the business or entity of which I am an officer, employee, or agent engaged in the production, sale, or distribution of pesticides in countries other than the United States or in countries in addition to the United States, or to the officers, employees, or agents of such a business or entity.

(2) I will not purposefully deliver or negligently cause the data to be delivered to a business or entity specified in paragraph (1) or its officers, employees, or agents.

I am aware that I may be subject to criminal penalties under Section 118 of the Penal Code if I make any statement of material facts knowing that the statement is false or if I willfully conceal any material fact.

Name of Requester	Name of Requester's Organization
Signature of Requester	Address of Requester
Date	Request No.	Telephone Number of Requester

Name, Address, and Telephone Number of Requester's Client, if the requester has requested access to the information on behalf of someone other than the requester or the requester's organization listed

above.

(i) Notwithstanding any other provision of this section, the director may disclose information submitted by an applicant or registrant to any person in connection with a public proceeding conducted under law or regulation, if the director determines that the information is needed to determine whether a pesticide, or any ingredient of any pesticide, causes unreasonable adverse effects on health or the environment.

(j) The director shall maintain records of the names of persons to whom data is disclosed pursuant to this section and the persons or organizations they represent and shall inform the applicant or registrant of the names and the affiliation of these persons.

(k) Section 118 of the Penal Code applies to any affirmation made pursuant to this section.

(l) Any officer or employee of the state or former officer or employee of the state who, because of this employment or official position, obtains possession of, or has access to, material which is prohibited from disclosure by this section, and who, knowing that disclosure of this material is prohibited by this section, willfully discloses the material in any manner to any person not entitled to receive it, shall, upon conviction, be punished by a fine of not more than ten thousand dollars ($10,000), or by imprisonment in the county jail for not more than one year, or by both fine and imprisonment.

For purposes of this subdivision, any contractor with the state who is furnished information pursuant to this section, or any employee of any contractor, shall be considered an employee of the state.

(m) This section does not prohibit any person from maintaining a civil action for wrongful disclosure of trade secrets.

(n) The director may limit an individual to one request per month pursuant to this section if the director determines that a person has made a frivolous request within the past 12-month period.

§ 6254.25. Memorandum from legal counsel to state body or local agency; pending litigation

Nothing in this chapter or any other provision of law shall require the disclosure of a memorandum submitted to a state body or to the legislative body of a local agency by its legal counsel pursuant to subdivision (q) of Section 11126 or Section 54956.9 until the pending litigation has been finally adjudicated or otherwise settled. The memorandum shall be protected by the attorney work-product privilege until the pending litigation has been finally adjudicated or otherwise settled.

§ 6254.3. State, school district and county office of education employees; home address and phone number as public records; disclosure

(a) The home addresses and home telephone numbers of state employees and employees of a school district or county office of education shall not be deemed to be public records and shall not be open to public inspection, except that disclosure of that information may be made as follows:

(1) To an agent, or a family member of the individual to whom the information pertains.

(2) To an officer or employee of another state agency, school district, or county office of education when necessary for the performance of its official duties.

(3) To an employee organization pursuant to regulations and decisions of the Public Employment Relations Board, except that the home addresses and home telephone numbers of employees performing law enforcement-related functions shall not be disclosed.

(4) To an agent or employee of a health benefit plan providing health services or administering claims for health services to state, school districts, and county office of education employees and their enrolled dependents, for the purpose of providing the health services or administering claims for employees and their enrolled dependents.

(b) Upon written request of any employee, a state agency, school district, or county office of education shall not disclose the employee's home address or home telephone number pursuant to paragraph (3) of subdivision (a) and an agency shall remove the employee's home address and home telephone number from

any mailing list maintained by the agency, except if the list is used exclusively by the agency to contact the employee.

§ 6254.4. Voter registration information; confidentiality

(a) The home address, telephone number, precinct number, or other number specified by the Secretary of State for voter registration purposes, and prior registration information shown on the voter registration card for all registered voters is confidential, and shall not be disclosed to any person, except pursuant to Sections 2194 and 2194.5 of the Elections Code.

(b) For purposes of this section, "home address" means street address only, and does not include an individual's city or post office address.

(c) The California driver's license number or California identification card number shown on a voter registration card of a registered voter is confidential and shall not be disclosed to any person.

§ 6254.5. Disclosures of public records; waiver of exemptions; application of section

Notwithstanding any other provisions of the law, whenever a state or local agency discloses a public record which is otherwise exempt from this chapter, to any member of the public, this disclosure shall constitute a waiver of the exemptions specified in Sections 6254, 6254.7, or other similar provisions of law. For purposes of this section, "agency" includes a member, agent, officer, or employee of the agency acting within the scope of his or her membership, agency, office, or employment.

This section, however, shall not apply to disclosures:

(a) Made pursuant to the Information Practices Act (commencing with Section 1798 of the Civil Code) or discovery proceedings.

(b) Made through other legal proceedings or as otherwise required by law.

(c) Within the scope of disclosure of a statute which limits disclosure of specified writings to certain purposes.

(d) Not required by law, and prohibited by formal action of an elected legislative body of the local agency which retains the writings.

(e) Made to any governmental agency which agrees to treat the disclosed material as confidential. Only persons authorized in writing by the person in charge of the agency shall be permitted to obtain the information. Any information obtained by the agency shall only be used for purposes which are consistent with existing law.

(f) Of records relating to a financial institution or an affiliate thereof, if the disclosures are made to the financial institution or affiliate by a state agency responsible for the regulation or supervision of the financial institution or affiliate.

(g) Of records relating to any person that is subject to the jurisdiction of the Department of Corporations, if the disclosures are made to the person that is the subject of the records for the purpose of corrective action by that person, or if a corporation, to an officer, director, or other key personnel of the corporation for the purpose of corrective action, or to any other person to the extent necessary to obtain information from that person for the purpose of an investigation by the Department of Corporations.

(h) Made by the Commissioner of Financial Institutions under Section 1909, 8009, or 18396 of the Financial Code.

§ 6254.6. Private industry wage data from federal bureau of labor statistics; identity of employers; confidentiality

Whenever a city and county or a joint powers agency, pursuant to a mandatory statute or charter provision to collect private industry wage data for salary setting purposes, or a contract entered to implement

that mandate, is provided this data by the federal Bureau of Labor Statistics on the basis that the identity of private industry employers shall remain confidential, the identity of the employers shall not be open to the public or be admitted as evidence in any action or special proceeding.

§ 6254.7. Air pollution data; public records; notices and orders to building owners; trade secrets; data used to calculate costs of obtaining emission offsets

(a) All information, analyses, plans, or specifications that disclose the nature, extent, quantity, or degree of air contaminants or other pollution which any article, machine, equipment, or other contrivance will produce, which any air pollution control district or air quality management district, or any other state or local agency or district, requires any applicant to provide before the applicant builds, erects, alters, replaces, operates, sells, rents, or uses the article, machine, equipment, or other contrivance, are public records.

(b) All air or other pollution monitoring data, including data compiled from stationary sources, are public records.

(c) All records of notices and orders directed to the owner of any building of violations of housing or building codes, ordinances, statutes, or regulations which constitute violations of standards provided in Section 1941.1 of the Civil Code, and records of subsequent action with respect to those notices and orders, are public records.

(d) Except as otherwise provided in subdivision (e) and Chapter 3 (commencing with Section 99150) of Part 65 of the Education Code, trade secrets are not public records under this section. "Trade secrets," as used in this section, may include, but are not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service having commercial value and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.

(e) Notwithstanding any other provision of law, all air pollution emission data, including those emission data which constitute trade secrets as defined in subdivision (d), are public records. Data used to calculate emission data are not emission data for the purposes of this subdivision and data which constitute trade secrets and which are used to calculate emission data are not public records.

(f) Data used to calculate the costs of obtaining emissions offsets are not public records. At the time that an air pollution control district or air quality management district issues a permit to construct to an applicant who is required to obtain offsets pursuant to district rules and regulations, data obtained from the applicant consisting of the year the offset transaction occurred, the amount of offsets purchased, by pollutant, and the total cost, by pollutant, of the offsets purchased is a public record. If an application is denied, the data shall not be a public record.

§ 6254.8. Employment contracts between state or local agency and public official or employee; public record

Every employment contract between a state or local agency and any public official or public employee is a public record which is not subject to the provisions of Sections 6254 and 6255.

§ 6254.9. Computer software; status as public record; sale, lease, or license authorized; limitations

(a) Computer software developed by a state or local agency is not itself a public record under this chapter. The agency may sell, lease, or license the software for commercial or noncommercial use.

(b) As used in this section, "computer software" includes computer mapping systems, computer programs, and computer graphics systems.

(c) This section shall not be construed to create an implied warranty on the part of the State of California or any local agency for errors, omissions, or other defects in any computer software as provided pursuant to

this section.

(d) Nothing in this section is intended to affect the public record status of information merely because it is stored in a computer. Public records stored in a computer shall be disclosed as required by this chapter.

(e) Nothing in this section is intended to limit any copyright protections.

§ 6254.10. Disclosure of archeological site information not required

Nothing in this chapter requires disclosure of records that relate to archeological site information maintained by the Department of Parks and Recreation, the State Historical Resources Commission, or the State Lands Commission.

§ 6254.11. Volatile organic compounds or chemical substances information

Nothing in this chapter requires the disclosure of records that relate to volatile organic compounds or chemical substances information received or compiled by an air pollution control officer pursuant to Section 42303.2 of the Health and Safety Code.

§ 6254.12. Broker-dealer license information; disciplinary records

Any information reported to the North American Securities Administrators Association/National Association of Securities Dealers' Central Registration Depository and compiled as disciplinary records which are made available to the Department of Corporations through a computer system, shall constitute a public record. Notwithstanding any other provision of law, the Department of Corporations may disclose that information and the current license status and the year of issuance of the license of a broker-dealer upon written or oral request pursuant to Section 25247 of the Corporations Code.

§ 6254.13. Statewide testing program; test questions or materials; disclosure to Member of Legislature or Governor; confidentiality

Notwithstanding Section 6254, upon the request of any Member of the Legislature or upon request of the Governor or his or her designee, test questions or materials that would be used to administer an examination and are provided by the State Department of Education and administered as part of a statewide testing program of pupils enrolled in the public schools shall be disclosed to the requester. These questions or materials may not include an individual examination that has been administered to a pupil and scored. The requester may not take physical possession of the questions or materials, but may view the questions or materials at a location selected by the department. Upon viewing this information, the requester shall keep the materials that he or she has seen confidential.

§ 6254.14. Health care services contract records of the Corrections Department or the California Medical Assistance Commission

(a) Except as provided in Sections 6254 and 6254.7, nothing in this chapter shall be construed to require disclosure of records of the Department of Corrections that relate to health care services contract negotiations, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations, including, but not limited to, records related to those negotiations such as meeting minutes, research, work product, theories, or strategy of the department, or its staff, or members of the California Medical Assistance Commission, or its staff, who act in consultation with, or on behalf of, the department.

Except for the portion of a contract that contains the rates of payment, contracts for health services entered into by the Department of Corrections or the California Medical Assistance Commission on or after July 1, 1993, shall be open to inspection one year after they are fully executed. In the event that a contract for health services that is entered into prior to July 1, 1993, is amended on or after July 1, 1993, the amendment, except for any portion containing rates of payment, shall be open to inspection one year after it

is fully executed.

Three years after a contract or amendment is open to inspection under this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

Notwithstanding any other provision of law, the entire contract or amendment shall be open to inspection by the Joint Legislative Audit Committee and the Bureau of State Audits. The Joint Legislative Audit Committee and the Bureau of State Audits shall maintain the confidentiality of the contracts and amendments until the contract or amendment is fully open to inspection by the public.

It is the intent of the Legislature that confidentiality of health care provider contracts, and of the contracting process as provided in this subdivision, is intended to protect the competitive nature of the negotiation process, and shall not affect public access to other information relating to the delivery of health care services.

(b) The inspection authority and confidentiality requirements established in subdivisions (q), (v), and (w) of Section 6254 for the Legislative Audit Committee shall also apply to the Bureau of State Audits.

§ 6254.15. Information relating to retention, location, or expansion of corporate facility within the state; redaction

Nothing in this chapter shall be construed to require the disclosure of records that are any of the following: corporate financial records, corporate proprietary information including trade secrets, and information relating to siting within the state furnished to a government agency by a private company for the purpose of permitting the agency to work with the company in retaining, locating, or expanding a facility within California. Except as provided below, incentives offered by state or local government agencies, if any, shall be disclosed upon communication to the agency or the public of a decision to stay, locate, relocate, or expand, by a company, or upon application by that company to a governmental agency for a general plan amendment, rezone, use permit, building permit, or any other permit, whichever occurs first.

The agency shall delete, prior to disclosure to the public, information that is exempt pursuant to this section from any record describing state or local incentives offered by an agency to a private business to retain, locate, relocate, or expand the business within California.

§ 6254.16. Utility customers; disclosure of names, credit histories, usage data, addresses, or telephone numbers

Nothing in this chapter shall be construed to require the disclosure of the name, credit history, utility usage data, home address, or telephone number of utility customers of local agencies, except that disclosure of name, utility usage data, and the home address of utility customers of local agencies shall be made available upon request as follows:

(a) To an agent or authorized family member of the person to whom the information pertains.

(b) To an officer or employee of another governmental agency when necessary for the performance of its official duties.

(c) Upon court order or the request of a law enforcement agency relative to an ongoing investigation.

(d) Upon determination by the local agency that the utility customer who is the subject of the request has used utility services in a manner inconsistent with applicable local utility usage policies.

(e) Upon determination by the local agency that the utility customer who is the subject of the request is an elected or appointed official with authority to determine the utility usage policies of the local agency, provided that the home address of an appointed official shall not be disclosed without his or her consent.

(f) Upon determination by the local agency that the public interest in disclosure of the information clearly outweighs the public interest in nondisclosure.

§ 6254.20. Electronically collected personal information

Nothing in this chapter shall be construed to require the disclosure of records that relate to electronically collected personal information, as defined by Section 11015.5, received, collected, or compiled by a state agency.

§ 6254.21. Home address or telephone number of any elected or appointed official

(a) No state or local agency shall post the home address or telephone number of any elected or appointed official on the Internet without first obtaining the written permission of that individual.

(b) For purposes of this section "elected or appointed official" includes, but is not limited to, all of the following:

(1) State constitutional officers.
(2) Members of the Legislature.
(3) Judges and court commissioners.
(4) District attorneys.
(5) Public defenders.
(6) Members of a city council.
(7) Members of a board of supervisors.
(8) Appointees of the Governor.
(9) Appointees of the Legislature.
(10) Mayors.
(11) City attorneys.
(12) Police chiefs and sheriffs.

§ 6255. Justification for withholding of records

The agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of this chapter or that on the facts of the particular case the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record.

§ 6256. Repealed by Stats.1998, c. 620 (S.B.143), § 7

§ 6256.1. Repealed by Stats.1998, c. 620 (S.B.143), § 8

§ 6256.2. Repealed by Stats.1998, c. 620 (S.B.143), § 9

§ 6257. Repealed by Stats.1998, c. 620 (S.B.143), § 10

§ 6257.5. Purpose of request for disclosure; effect

This chapter does not allow limitations on access to a public record based upon the purpose for which the record is being requested, if the record is otherwise subject to disclosure.

§ 6258. Proceedings to enforce right to inspect or to receive copy of record

Any person may institute proceedings for injunctive or declarative relief or writ of mandate in any court of competent jurisdiction to enforce his or her right to inspect or to receive a copy of any public record or class of public records under this chapter. The times for responsive pleadings and for hearings in these proceedings shall be set by the judge of the court with the object of securing a decision as to these matters at the earliest possible time.

§ 6259. Order of court; review; contempt; court costs and attorney fees

(a) Whenever it is made to appear by verified petition to the superior court of the county where the records or some part thereof are situated that certain public records are being improperly withheld from a member of the public, the court shall order the officer or person charged with withholding the records to disclose the public record or show cause why he or she should not do so. The court shall decide the case after examining the record in camera, if permitted by subdivision (b) of Section 915 of the Evidence Code, papers filed by the parties and any oral argument and additional evidence as the court may allow.

(b) If the court finds that the public official's decision to refuse disclosure is not justified under Section 6254 or 6255, he or she shall order the public official to make the record public. If the judge determines that the public official was justified in refusing to make the record public, he or she shall return the item to the public official without disclosing its content with an order supporting the decision refusing disclosure.

(c) In an action filed on or after January 1, 1991, an order of the court, either directing disclosure by a public official or supporting the decision of the public official refusing disclosure, is not a final judgment or order within the meaning of Section 904.1 of the Code of Civil Procedure from which an appeal may be taken, but shall be immediately reviewable by petition to the appellate court for the issuance of an extraordinary writ. Upon entry of any order pursuant to this section, a party shall, in order to obtain review of the order, file a petition within 20 days after service upon him or her of a written notice of entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the notice is served by mail, the period within which to file the petition shall be increased by five days. A stay of an order or judgment shall not be granted unless the petitioning party demonstrates it will otherwise sustain irreparable damage and probable success on the merits. Any person who fails to obey the order of the court shall be cited to show cause why he or she is not in contempt of court.

(d) The court shall award court costs and reasonable attorney fees to the plaintiff should the plaintiff prevail in litigation filed pursuant to this section. The costs and fees shall be paid by the public agency of which the public official is a member or employee and shall not become a personal liability of the public official. If the court finds that the plaintiff's case is clearly frivolous, it shall award court costs and reasonable attorney fees to the public agency.

§ 6260. Effect of chapter on prior rights and proceedings

The provisions of this chapter shall not be deemed in any manner to affect the status of judicial records as it existed immediately prior to the effective date of this section, nor to affect the rights of litigants, including parties to administrative proceedings, under the laws of discovery of this state, nor to limit or impair any rights of discovery in a criminal case.

§ 6261. Itemized statement of total expenditures and disbursement of any agency

Notwithstanding Section 6252, an itemized statement of the total expenditures and disbursement of any agency provided for in Article VI of the California Constitution shall be open for inspection.

§ 6262. Exemption of records of complaints to, or investigations by, any state or local agency for licensing purposes; application to district attorney

The exemption of records of complaints to, or investigations conducted by, any state or local agency for licensing purposes under subdivision (f) of Section 6254 shall not apply when a request for inspection of such records is made by a district attorney.

§ 6263. District attorney; inspection or copying of nonexempt public records

A state or local agency shall allow an inspection or copying of any public record or class of public records

not exempted by this chapter when requested by a district attorney.

§ 6264. Order to allow district attorney to inspect or copy records

The district attorney may petition a court of competent jurisdiction to require a state or local agency to allow him to inspect or receive a copy of any public record or class of public records not exempted by this chapter when the agency fails or refuses to allow inspection or copying within 10 working days of a request. The court may require a public agency to permit inspection or copying by the district attorney unless the public interest or good cause in withholding such records clearly outweighs the public interest in disclosure.

§ 6265. Disclosure of records to district attorney; status of records

Disclosure of records to a district attorney under the provisions of this chapter shall effect no change in the status of the records under any other provision of law.

§ 6267. Libraries supported by public funds; registration and circulation records; confidentiality; exceptions

All registration and circulation records of any library which is in whole or in part supported by public funds shall remain confidential and shall not be disclosed to any person, local agency, or state agency except as follows:

(a) By a person acting within the scope of his or her duties within the administration of the library.

(b) By a person authorized, in writing, by the individual to whom the records pertain, to inspect the records.

(c) By order of the appropriate superior court.

As used in this section, the term "registration records" includes any information which a library requires a patron to provide in order to become eligible to borrow books and other materials, and the term "circulation records" includes any information which identifies the patrons borrowing particular books and other material.

This section shall not apply to statistical reports of registration and circulation nor to records of fines collected by the library.

§ 6268. Public records in custody or control of governor leaving office; transfer to state archives; restriction on public access; conditions

Public records, as defined in Section 6252, in the custody or control of the Governor when he or she leaves office, either voluntarily or involuntarily, shall, as soon as is practical, be transferred to the State Archives. Notwithstanding any other provision of law, the Governor, by written instrument, the terms of which shall be made public, may restrict public access to any of the transferred public records, or any other writings he or she may transfer, which have not already been made accessible to the public. With respect to public records, public access, as otherwise provided for by this chapter, shall not be restricted for a period greater than 50 years or the death of the Governor, whichever is later, nor shall there be any restriction whatsoever with respect to enrolled bill files, press releases, speech files, or writings relating to applications for clemency or extradition in cases which have been closed for a period of at least 25 years. Subject to any restrictions permitted by this section, the Secretary of State, as custodian of the State Archives, shall make all such public records and other writings available to the public as otherwise provided for in this chapter.

Except as to enrolled bill files, press releases, speech files, or writings relating to applications for clemency or extradition, this section shall not apply to public records or other writings in the direct custody or control of any Governor who held office between 1974 and 1988 at the time of leaving office, except to the extent that that Governor may voluntarily transfer those records or other writings to the State Archives.

Notwithstanding any other provision of law, the public records and other writings of any Governor who held office between 1974 and 1988 may be transferred to any educational or research institution in California provided that with respect to public records, public access, as otherwise provided for by this chapter, shall not

be restricted for a period greater than 50 years or the death of the Governor, whichever is later. No records or writings may be transferred pursuant to this paragraph unless the institution receiving them agrees to maintain, and does maintain, the materials according to commonly accepted archival standards. No public records transferred shall be destroyed by that institution without first receiving the written approval of the Secretary of State, as custodian of the State Archives, who may require that the records be placed in the State Archives rather than being destroyed. An institution receiving those records or writings shall allow the Secretary of State, as custodian of the State Archives, to copy, at state expense, and to make available to the public, any and all public records, and inventories, indices, or finding aids relating to those records, which the institution makes available to the public generally. Copies of those records in the custody of the State Archives shall be given the same legal effect as is given to the originals.

§ 6270. Sale, exchange or otherwise providing records subject to disclosure to private entities; prohibition; exception

(a) Notwithstanding any other provision of law, no state or local agency shall sell, exchange, furnish, or otherwise provide a public record subject to disclosure pursuant to this chapter to a private entity in a manner that prevents a state or local agency from providing the record directly pursuant to this chapter. Nothing in this section requires a state or local agency to use the State Printer to print public records. Nothing in this section prevents the destruction of records pursuant to law.

(b) This section shall not apply to contracts entered into prior to January 1, 1996, between the County of Santa Clara and a private entity for the provision of public records subject to disclosure under this chapter.

ARTICLE 2. OTHER EXEMPTIONS FROM DISCLOSURE

§ 6275. Legislative intent; effect of listing in article

It is the intent of the Legislature to assist members of the public and state and local agencies in identifying exemptions to the California Public Records Act. It is the intent of the Legislature that, after January 1, 1999, each addition or amendment to a statute that exempts any information contained in a public record from disclosure pursuant to subdivision (k) of Section 6254 shall be listed and described in this article. The statutes listed in this article may operate to exempt certain records, or portions thereof, from disclosure. The statutes listed and described may not be inclusive of all exemptions. The listing of a statute in this article does not itself create an exemption. Requesters of public records and public agencies are cautioned to review the applicable statute to determine the extent to which the statute, in light of the circumstances surrounding the request, exempts public records from disclosure.

§ 6276. Records or information not required to be disclosed

Records or information not required to be disclosed pursuant to subdivision (k) of Section 6254 may include, but shall not be limited to, records or information identified in statutes listed in this article.

§ 6276.02. "Accident reports" to "Adoption records"

Accident Reports, Admissibility as Evidence, Section 315, Public Utilities Code.

Acquired Immune Deficiency Syndrome, blood test results, written authorization not necessary for disclosure, Section 121010, Health and Safety Code.

Acquired Immune Deficiency Syndrome, blood test subject, compelling identity of, Section 120975, Health and Safety Code.

Acquired Immune Deficiency Syndrome, confidentiality of personal data of patients in State Department of Health Services programs, Section 120820, Health and Safety Code.

Acquired Immune Deficiency Syndrome, confidentiality of research records, Sections 121090, 121095, 121115, and 121120, Health and Safety Code.
Acquired Immune Deficiency Syndrome, confidentiality of vaccine volunteers, Section 121280, Health and Safety Code.
Acquired Immune Deficiency Syndrome, confidentiality of information obtained in prevention programs at correctional facilities and law enforcement agencies, Sections 7552 and 7554, Penal Code.
Acquired Immune Deficiency Syndrome, confidentiality of test results of person convicted of prostitution, Section 1202.6, Penal Code.
Acquired Immune Deficiency Syndrome, disclosure of results of HIV test, penalties, Section 120980, Health and Safety Code.
Acquired Immune Deficiency Syndrome, personal information, insurers tests, confidentiality of, Section 799, Insurance Code.
Acquired Immune Deficiency Syndrome, public safety and testing disclosure, Sections 121065 and 121070, Health and Safety Code.
Acquired Immune Deficiency Syndrome Research and Confidentiality Act, production or discovery of records for use in criminal or civil proceedings against subject prohibited, Section 121100, Health and Safety Code.
Acquired Immune Deficiency Syndrome Public Health Records Confidentiality Act, personally identifying information confidentiality, Section 121025, Health and Safety Code.
Acquired Immune Deficiency Syndrome, test of criminal defendant pursuant to search warrant requested by victim, confidentiality of, Section 1524.1, Penal Code.
Acquired Immune Deficiency Syndrome, test results, disclosure to patient's spouse and others, Section 121015, Health and Safety Code.
Acquired Immune Deficiency Syndrome, test of person under Youth Authority, disclosure of results, Section 1768.9, Welfare and Institutions Code.
Acquired Immune Deficiency Syndrome Research and Confidentiality Act, definitions, Section 121125, Health and Safety Code.
Acquired Immune Deficiency Syndrome Research and Confidentiality Act, financial audits or program evaluations, Section 121085, Health and Safety Code.
Acquired Immune Deficiency Syndrome Research and Confidentiality Act, violations, Section 121100, Health and Safety Code.
Acquired Immune Deficiency Syndrome Research and Confidentiality Act, personally identifying research records not to be disclosed, Section 121075, Health and Safety Code.
Acquired Immune Deficiency Syndrome Research and Confidentiality Act, permittee disclosure, Section 121080, Health and Safety Code.
Administrative procedure, adjudicatory hearings, disclosure of ex parte communication to administrative law judge, Section 11430.40, Government Code.
Administrative procedure, adjudicatory hearings, interpreters, Section 11513, Government Code.
Adoption records, confidentiality of, Section 102730, Health and Safety Code.

§ 6276.04. "Aeronautics Act" to "Avocado handler transaction records"

Aeronautics Act, reports of investigations and hearings, Section 21693, Public Utilities Code.
Agricultural producers marketing, access to records, Section 59616, Food and Agricultural Code.
Aiding disabled voters, Section 14282, Elections Code.
Air pollution data, confidentiality of trade secrets, Section 6254.7, Government Code, and Sections 42303.2 and 43206, Health and Safety Code.
Air toxics emissions inventory plans, protection of trade secrets, Section 44346, Health and Safety Code.
Alcohol and drug abuse records and records of communicable diseases, confidentiality of, Section 123125,

Health and Safety Code.
Apiary registration information, confidentiality of, Section 29041, Food and Agricultural Code.
Arrest not resulting in conviction, disclosure or use of records, Sections 432.7 and 432.8, Labor Code.
Arsonists, registered, confidentiality of certain information, Section 457.1, Penal Code.
Artificial insemination, donor not natural father, confidentiality of records, Section 7613, Family Code.
Assessor's records, confidentiality of information in, Section 408, Revenue and Taxation Code.
Assessor's records, confidentiality of information in, Section 451, Revenue and Taxation Code.
Assessor's records, display of documents relating to business affairs or property of another, Section 408.2, Revenue and Taxation Code.
Assigned risk plans, rejected applicants, confidentiality of information, Section 11624, Insurance Code.
Attorney applicant, investigation by State Bar, confidentiality of, Section 6060.2, Business and Professions Code.
Attorney-client confidential communication, Section 6068, Business and Professions Code and Sections 952, 954, 956, 956.5, 957, 958, 959, 960, 961, and 962, Evidence Code.
Attorney, disciplinary proceedings, confidentiality prior to formal proceedings, Section 6086.1, Business and Professions Code.
Attorney, disciplinary proceeding, State Bar access to nonpublic court records, Section 6090.6, Business and Professions Code.
Attorney, investigation by State Bar, confidentiality of, Section 6168, Business and Professions Code.
Attorney, law corporation, investigation by State Bar, confidentiality of, Section 6168, Business and Professions Code.
Attorney, State Bar survey information, confidentiality of, Section 6033, Business and Professions Code.
Attorney work product confidentiality in administrative adjudication, Section 11507.6, Government Code.
Attorney, work product, confidentiality of, Section 6202, Business and Professions Code.
Attorney work product, discovery, Section 2018, Code of Civil Procedure.
Auditor General, access to records for audit purposes, Sections 10527 and 10527.1, Government Code.
Auditor General, disclosure of audit records, Section 10525, Government Code.
Automobile Insurance Claims Depository, confidentiality of information, Section 1876.3, Insurance Code.
Automobile insurance, investigation of fraudulent claims, confidential information, Section 1872.8, Insurance Code.
Automotive repair facility, fact of certification or decertification, Section 9889.47, Business and Professions Code.
Automotive repair facility, notice of intent to seek certification, Section 9889.33, Business and Professions Code.
Avocado handler transaction records, confidentiality of, Sections 44982 and 44984, Food and Agricultural Code.

§ 6276.06. "Bank and Corporation Tax" to "Business and professions licensee exemption for social security number"

Bank and Corporation Tax, disclosure of information, Article 2 (commencing with Section 19542), Chapter 7, Part 10.2, Division 2, Revenue and Taxation Code.
Bank employees, confidentiality of criminal history information, Sections 777.5 and 4990, Financial Code.
Bank reports, confidentiality of, Section 1939, Financial Code.
Basic Property Insurance Inspection and Placement Plan, confidential reports, Section 10097, Insurance Code.
Beef Council of California, confidentiality of fee transactions information, Section 64691.1, Food and Agricultural Code.

Bids, confidentiality of, Section 10304, Public Contract Code.
Birth, death, and marriage licenses, confidential information contained in, Sections 102100 and 102110, Health and Safety Code.
Birth defects, monitoring, confidentiality of information collected, Section 103850, Health and Safety Code.
Birth, live, confidential portion of certificate, Sections 102430, 102475, 103525, and 103590, Health and Safety Code.
Blood tests, confidentiality of hepatitis and AIDS carriers, Section 1603.1, Health and Safety Code.
Blood-alcohol percentage test results, vehicular offenses, confidentiality of, Section 1804, Vehicle Code.
Bureau of Fraudulent Claims, investigations or publication of information, Section 12991, Insurance Code.
Business and professions licensee exemption for social security number, Section 30, Business and Professions Code.

§ 6276.08. "Cable television subscriber information" to "California Wine Grape Commission"
Cable television subscriber information, confidentiality of, Section 637.5, Penal Code.
California AIDS Program, personal data, confidentiality, Section 120820, Health and Safety Code.
California Apple Commission, confidentiality of lists of persons, Section 75598, Food and Agricultural Code.
California Apple Commission, confidentiality of proprietary information from producers or handlers, Section 75633, Food and Agricultural Code.
California Asparagus Commission, confidentiality of lists of producers, Section 78262, Food and Agricultural Code.
California Asparagus Commission, confidentiality of proprietary information from producers, Section 78288, Food and Agricultural Code.
California Avocado Commission, confidentiality of information from handlers, Section 67094, Food and Agricultural Code.
California Avocado Commission, confidentiality of proprietary information from handlers, Section 67104, Food and Agricultural Code.
California Cherry Commission, confidentiality of proprietary information from producers, processors, shippers, or grower-handlers, Section 76144, Food and Agricultural Code.
California Cut Flower Commission, confidentiality of lists of producers, Section 77963, Food and Agricultural Code.
California Cut Flower Commission, confidentiality of proprietary information from producers, Section 77988, Food and Agricultural Code.
California Date Commission, confidentiality of proprietary information from producers and grower-handlers, Section 77843, Food and Agricultural Code.
California Egg Commission, confidentiality of proprietary information from handlers or distributors, Section 75134, Food and Agricultural Code.
California Forest Products Commission, confidentiality of lists of persons, Section 77589, Food and Agricultural Code.
California Forest Products Commission, confidentiality of proprietary information from producers, Section 77624, Food and Agricultural Code.
California Iceberg Lettuce Commission, confidentiality of information from handlers, Section 66624, Food and Agricultural Code.
California Kiwifruit Commission, confidentiality of proprietary information from producers or handlers, Section 68104, Food and Agricultural Code.
California Navel Orange Commission, confidentiality of proprietary information from producers or handlers and lists of producers and handlers, Section 73257, Food and Agricultural Code.
California Pepper Commission, confidentiality of lists of producers and handlers, Section 77298, Food and

Agricultural Code.
California Pepper Commission, confidentiality of proprietary information from producers or handlers, Section 77334, Food and Agricultural Code.
California Pistachio Commission, confidentiality of proprietary information from producers or processors, Section 69045, Food and Agricultural Code.
California Salmon Commission, confidentiality of fee transactions records, Section 76901.5, Food and Agricultural Code.
California Salmon Commission, confidentiality of request for list of commercial salmon vessel operators, Section 76950, Food and Agricultural Code.
California Seafood Council, confidentiality of fee transaction records, Section 78553, Food and Agricultural Code.
California Seafood Council, confidentiality of information on volume of fish landed, Section 78575, Food and Agricultural Code.
California Sheep Commission, confidentiality of proprietary information from producers or handlers and lists of producers, Section 76343, Food and Agricultural Code.
California State University contract law, bids, questionnaires and financial statements, Section 10763, Public Contract Code.
California Table Grape Commission, confidentiality of information from shippers, Section 65603, Food and Agricultural Code.
California Tomato Commission, confidentiality of lists of producers, handlers, and others, Section 78679, Food and Agricultural Code.
California Tomato Commission, confidentiality of proprietary information, Section 78704, Food and Agricultural Code.
California Walnut Commission, confidentiality of lists of producers, Section 77101, Food and Agricultural Code.
California Walnut Commission, confidentiality of proprietary information from producers or handlers, Section 77154, Food and Agricultural Code.
California Wheat Commission, confidentiality of proprietary information from handlers and lists of producers, Section 72104, Food and Agricultural Code.
California Wheat Commission, confidentiality of requests for assessment refund, Section 72109, Food and Agricultural Code.
California Wine Commission, confidentiality of proprietary information from producers or vintners, Section 74655, Food and Agricultural Code.
California Wine Grape Commission, confidentiality of proprietary information from producers and vintners, Section 74955, Food and Agricultural Code.

§ 6276.10. "Cancer registries" to "Community college employee"
Cancer registries, confidentiality of information, Section 103885, Health and Safety Code.
Candidate for local nonpartisan elective office, confidentiality of ballot statement, Section 13311, Elections Code.
Charter-Party Carriers, unauthorized disclosures by commission, Section 5412.5, Public Utilities Code.
Child abuse information, exchange by multidisciplinary personnel teams, Section 830, Welfare and Institutions Code.
Child abuse information reported to Department of Justice, confidentiality of, Sections 11107.5 and 11169, Penal Code.
Child abuse report and those making report, confidentiality of, Sections 11167, 11167.5, and 11174.3, Penal Code.

Child care liability insurance, confidentiality of information, Section 1864, Insurance Code.
Child concealer, confidentiality of address, Section 277, Penal Code.
Child custody investigation report, confidentiality of, Section 3111, Family Code.
Child day care facility, nondisclosure of complaint, Section 1596.853, Health and Safety Code.
Child health and disability prevention, confidentiality of health screening and evaluation results, Section 124110, Health and Safety Code.
Child support, confidentiality of income tax return, Section 3552, Family Code.
Child support, promise to pay, confidentiality of, Section 7614, Family Code.
Childhood lead poisoning prevention, confidentiality of blood lead findings, Section 124130, Health and Safety Code.
Cigarette tax, confidential information, Section 30455, Revenue and Taxation Code.
Civil actions, delayed disclosure for 30 days after complaint filed, Section 482.050, Code of Civil Procedure.
Closed sessions, meetings of local governments, pending litigation, Section 54956.9, Government Code.
Closed sessions, multijurisdictional drug enforcement agencies, Section 54957.8, Government Code.
Colorado River Board, confidential information and records, Section 12519, Water Code.
Commercial fishing licensee, confidentiality of records, Section 7923, Fish and Game Code.
Commercial fishing reports, Section 8022, Fish and Game Code.
Community care facilities, confidentiality of client information, Section 1557.5, Health and Safety Code.
Community college employee, candidate examination records, confidentiality of, Section 88093, Education Code.
Community college employee, notice and reasons for nonreemployment, confidentiality, Section 87740, Education Code.

§ 6276.12. "Conservatee" to "Customer list of telephone answering service"

Conservatee, confidentiality of the conservatee's report, Section 1826, Probate Code.
Conservatee, estate plan of, confidentiality of, Section 2586, Probate Code.
Conservatee with disability, confidentiality of report, Section 1827.5, Probate Code.
Conservator, confidentiality of conservator's birthdate and driver's license number, Section 1834, Probate Code.
Conservator, supplemental information, confidentiality of, Section 1821, Probate Code.
Conservatorship, court review of, confidentiality of report, Section 1851, Probate Code.
Consumer credit report information prohibited from being furnished for employment purposes, Section 1785.18, Civil Code.
Consumer fraud investigations, access to complaints and investigations, Section 26509, Government Code.
Consumption or utilization of mineral materials, disclosure of, Section 2207.1, Public Resources Code.
Contractor, evaluations and contractor responses, confidentiality of, Section 10370, Public Contract Code.
Contractor, license applicants, evidence of financial solvency, confidentiality of, Section 7067.5, Business and Professions Code.
Controlled Substance Law violations, confidential information, Section 818.7, Government Code.
Controlled substance offenders, confidentiality of registration information, Section 11594, Health and Safety Code.
Cooperative Marketing Association, confidential information disclosed to conciliator, Sections 54453 and 54457, Food and Agricultural Code.
Coroner, inquests, subpoena duces tecum, Sections 27491.8 and 27498, Government Code.
Corporations, commissioner, publication of information filed with commissioner, Section 25605, Corporations Code.
County alcohol programs, confidential information and records, Section 11812, Health and Safety Code.

County Employees' Retirement, confidential statements and records, Section 31532, Government Code.
County mental health system, confidentiality of client information, Section 5610, Welfare and Institutions Code.
County social services, investigation of applicant, confidentiality, Section 18491, Welfare and Institutions Code.
County social services rendered by volunteers, confidentiality of records of recipients, Section 10810, Welfare and Institutions Code.
Court files, access to, restricted for 60 days, Section 1161.2, Code of Civil Procedure.
Court reporters, confidentiality of records and reporters, Section 68525, Government Code.
Court-appointed special advocates, confidentiality of information acquired or reviewed, Section 105, Welfare and Institutions Code.
Crane employers, previous business identities, confidentiality of, Section 7383, Labor Code.
Credit unions, confidentiality of investigation and examination reports, Section 14257, Financial Code.
Credit unions, confidentiality of employee criminal history information, Section 14409.2, Financial Code.
Credit unions, confidentiality of financial reports, Section 16120, Financial Code.
Criminal defendant, indigent, confidentiality of request for funds for investigators and experts, Section 987.9, Penal Code.
Criminal felon placed in diagnostic facility, confidentiality of report of diagnosis and recommendation, Sections 1203.3 and 1543, Penal Code.
Criminal offender record information, access to, Sections 11076, 11077, 11081, 13201, and 13202, Penal Code.
Criminal records information, disclosure by vendor, Section 11149.4, Penal Code.
Criminal statistics, confidentiality of information, Section 13013, Penal Code.
Crop reports, confidential, subdivision (e), Section 6254, Government Code.
Customer list of employment agency, trade secret, Section 16607, Business and Professions Code.
Customer list of telephone answering service, trade secret, Section 16606, Business and Professions Code.

§ 6276.14. "Dairy Council of California" to "Driving school and driving instructor licensee records"
Dairy Council of California, confidentiality of ballots, Section 64155, Food and Agricultural Code.
Data processing systems contracts with state agencies, confidentiality of information, Section 11772, Government Code.
Death, report that physician's or podiatrist's negligence or incompetence may be cause, confidentiality of, Section 802.5, Business and Professions Code.
Dentist advertising and referral contract exemption, Section 650.2, Business and Professions Code.
Dentist, alcohol or dangerous drug rehabilitation and diversion, confidentiality of records, Section 1698, Business and Professions Code.
Department of Consumer Affairs licensee exemption for alcohol or dangerous drug treatment and rehabilitation records, Section 156.1, Business and Professions Code.
Developmentally disabled conservatee confidentiality of reports and records, Sections 416.8 and 416.18, Health and Safety Code.
Developmentally disabled or mentally disordered person as victim of crime, information in report filed with law enforcement agency, Section 5004.5, Welfare and Institutions Code.
Developmentally disabled person, access to information provided by family member, Section 4727, Welfare and Institutions Code.
Developmentally disabled person and person with mental illness, access to and release of information about, by protection and advocacy agency, Section 4903, Welfare and Institutions Code.
Developmentally disabled person, confidentiality of patient records, state agencies, Section 4553, Welfare

and Institutions Code.
Developmentally disabled person, confidentiality of records and information, Sections 4514 and 4518, Welfare and Institutions Code.
Diesel Fuel Tax information, disclosure prohibited, Section 60609, Revenue and Taxation Code.
Disability compensation, confidential medical records, Section 2714, Unemployment Insurance Code.
Disability insurance, access to registered information, Section 789.7, Insurance Code.
Discrimination complaint to Division of Labor Standards Enforcement, confidentiality of witnesses, Section 98.7, Labor Code.
Dispute resolution participants confidentiality, Section 471.5, Business and Professions Code.
District Agricultural Association Board, records, public inspection, Section 3968, Food and Agricultural Code.
Domestic violence counselor and victim, confidentiality of communication, Sections 1037.2 and 1037.5, Evidence Code.
Driver arrested for traffic violation, notice of reexamination for evidence of incapacity, confidentiality of, Section 40313, Vehicle Code.
Driver's license file information, sale or inspection, Section 1810, Vehicle Code.
Driving school and driving instructor licensee records, confidentiality of, Section 11108, Vehicle Code.

§ 6276.16. "Educational psychologist-patient" to "Executive Department"
Educational psychologist-patient, privileged communication, Section 1010.5, Evidence Code.
Electronic and appliance repair dealer, service contractor, financial data in applications, subdivision (x), Section 6254, Government Code.
Electronic data processing, data security and confidentiality, Sections 11771 and 11772, Government Code.
Emergency Medical Services Fund, patient named, Section 1797.98c, Health and Safety Code.
Eminent domain proceedings, use of state tax returns, Section 1263.520, Code of Civil Procedure.
Employee personnel file, confidential preemployment information, Section 1198.5, Labor Code.
Employment agency, confidentiality of customer list, Section 16607, Business and Professions Code.
Employment application, nondisclosure of arrest record or certain convictions, Sections 432.7 and 432.8, Labor Code.
Employment Development Department, furnishing materials, Section 307, Unemployment Insurance Code.
Equal wage rate violation, confidentiality of complaint, Section 1197.5, Labor Code.
Equalization, State Board of, prohibition against divulging information, Section 15619, Government Code.
Escrow Agents' Fidelity Corporation, confidentiality of examination and investigation reports, Section 17336, Financial Code.
Escrow agents' confidentiality of reports on violations, Section 17414, Financial Code.
Escrow agents' confidentiality of state summary criminal history information, Section 17414.1, Financial Code.
Estate tax, confidential records and information, Sections 14251 and 14252, Revenue and Taxation Code.
Excessive rates or complaints, reports, Section 1857.9, Insurance Code.
Executive Department, closed sessions and the record of topics discussed, Sections 11126 and 11126.1, Government Code.
Executive Department, investigations and hearings, confidential nature of information acquired, Section 11183, Government Code.

§ 6276.18. "Family counselor and client" to "Fur dealer licensee"
Family counselor and client, confidential information, Section 4982, Business and Professions Code.
Family Court, records, Section 1818, Family Law Code.

Farm product processor license, confidentiality of financial statements, Section 55523.6, Food and Agricultural Code.
Farm product processor licensee, confidentiality of grape purchases, Section 55601.5, Food and Agricultural Code.
Fee payer information, prohibition against disclosure by Board of Equalization and others, Section 55381, Revenue and Taxation Code.
Financial institutions, issuance of securities, reports and records of state agencies, subdivision (d), Section 6254, Government Code.
Financial records, confidentiality of, Sections 7470, 7471, and 7473, Government Code.
Financial statements of insurers, confidentiality of information received, Section 925.3, Insurance Code.
Financial statements and questionnaires, of prospective bidders for the state, confidentiality of, Section 10165, Public Contract Code.
Financial statements and questionnaires, of prospective bidders for California State University contracts, confidentiality of, Section 10763, Public Contract Code.
Firearm license applications, subdivision (u), Section 6254, Government Code.
Firearm sale or transfer, confidentiality of records, Section 12082, Penal Code.
Firefighters Service Award, confidentiality of data filed with the Board of Administration of the Public Employees' Retirement System, Section 50955, Government Code.
Fish and wildlife law enforcement agreements with other states, confidentiality of information, Section 391, Fish and Game Code.
Fish and wildlife taken illegally, public record status of records of case, Section 2584, Fish and Game Code.
Food stamps, disclosure of information, Section 18909, Welfare and Institutions Code.
Foreign marketing of agricultural products, confidentiality of financial information, Section 58577, Food and Agricultural Code.
Forest fires, anonymity of informants, Section 4417, Public Resources Code.
Foster homes, identifying information, Section 1536, Health and Safety Code.
Franchise Tax Board, access to Franchise Tax Board information by the State Department of Social Services, Section 11025, Welfare and Institutions Code.
Franchise Tax Board, auditing, confidentiality of, Section 90005, Government Code.
Franchises, applications, and reports filed with Commissioner of Corporations, disclosure and withholding from public inspection, Section 31504, Corporations Code.

§ 6276.22. "Genetic test results" to "Guardianship"
Genetic test results in medical record of applicant or enrollee of specified insurance plans, Sections 10123.35 and 10140.1, Insurance Code.
Governor, correspondence of and to Governor and Governor's office, subdivision (l), Section 6254, Government Code.
Governor, transfer of public records in control of, restrictions on public access, Section 6268, Government Code.
Grand juror, disclosure of information or indictment, Section 924, Penal Code.
Grand jury, confidentiality of request for special counsel, Section 936.7, Penal Code.
Grand jury, confidentiality of transcription of indictment or accusation, Section 938.1, Penal Code.
Group Insurance, Public Employees, Section 53202.25, Government Code.
Guardian, confidentiality of report used to check ability, Section 2342, Probate Code.
Guardianship, confidentiality of report regarding the suitability of the proposed guardian, Section 1543, Probate Code.
Guardianship, disclosure of report and recommendation concerning proposed guardianship of person or

estate, Section 1513, Probate Code.

§ 6276.24. "Harmful matter" to "Housing authorities"

Harmful matter, distribution, confidentiality of certain recipients, Section 313.1, Penal Code.

Hazardous substance tax information, prohibition against disclosure, Section 43651, Revenue and Taxation Code.

Hazardous waste control, business plans, public inspection, Section 25506, Health and Safety Code.

Hazardous waste control, notice of unlawful hazardous waste disposal, Section 25180.5, Health and Safety Code.

Hazardous waste control, trade secrets, disclosure of information, Sections 25511 and 25538, Health and Safety Code.

Hazardous waste control, trade secrets, procedures for release of information, Section 25358.2, Health and Safety Code.

Hazardous waste generator report, protection of trade secrets, Sections 25244.21 and 25244.23, Health and Safety Code.

Hazardous waste licenseholder disclosure statement, confidentiality of, Section 25186.5, Health and Safety Code.

Hazardous waste management facilities on Indian lands, confidentiality of privileged or trade secret information, Section 25198.4, Health and Safety Code.

Hazardous waste recycling, duties of department, Section 25170, Health and Safety Code.

Hazardous waste recycling, list of specified hazardous wastes, trade secrets, Section 25175, Health and Safety Code.

Hazardous waste recycling, trade secrets, confidential nature, Sections 25173 and 25180.5, Health and Safety Code.

Healing arts licensees, central files, confidentiality, Section 800, Business and Professions Code.

Health Care Provider Central Files, confidentiality of, Section 800, Business and Professions Code.

Health care provider disciplinary proceeding, confidentiality of documents, Section 805.1, Business and Professions Code.

Health care service plans, review of quality of care, privileged communications, Sections 1370 and 1380, Health and Safety Code.

Health facilities, patient's rights of confidentiality, Sections 128735, 128755, and 128765, Health and Safety Code.

Health facility and clinic, consolidated data and reports, confidentiality of, Section 128730, Health and Safety Code.

Health personnel, data collection by the Office of Statewide Health Planning and Development, confidentiality of information on individual licentiates, Sections 127775 and 127780, Health and Safety Code.

Health planning and development pilot projects, confidentiality of data collected, Section 128165, Health and Safety Code.

Hereditary Disorders Act, legislative finding and declaration, confidential information, Sections 124975 and 124980, Health and Safety Code.

Hereditary Disorders Act, rules, regulations, and standards, breach of confidentiality, Section 124980, Health and Safety Code.

Higher Education Employee-Employer Relations, findings of fact and recommended terms of settlement, Section 3593, Government Code.

Higher Education Employee-Employer Relations, access by Public Employment Relation Board to employer's or employee organizations records, Section 3563, Government Code.

HIV, disclosures to blood banks by department or county health officers, Section 1603.1, Health and Safety Code.

Home address of public employees and officers in Department of Motor Vehicles, records, confidentiality of, Sections 1808.2 and 1808.4, Vehicle Code.
Horse racing, horses, blood or urine test sample, confidentiality, Section 19577, Business and Professions Code.
Hospital district and municipal hospital records relating to contracts with insurers and service plans, subdivision (t), Section 6254, Government Code.
Hospital final accreditation report, subdivision (s), Section 6254, Government Code.
Housing authorities, confidentiality of rosters of tenants, Section 34283, Health and Safety Code.
Housing authorities, confidentiality of applications by prospective or current tenants, Section 34332, Health and Safety Code.

§ 6276.26. "Improper obtaining or distributing of information from Department of Motor Vehicles" to "Investigative consumer reporting agency"

Improper obtaining or distributing of information from Department of Motor Vehicles, Sections 1808.46 and 1808.47, Vehicle Code.
Improper governmental activities reporting, confidentiality of identity of person providing information, Section 8547.5, Government Code.
Improper governmental activities reporting, disclosure of information, Section 8547.6, Government Code.
Industrial accident reports, confidentiality of information, Section 129, Labor Code.
Industrial loan companies, confidentiality of financial information, Section 18496, Financial Code.
Industrial loan companies, confidentiality of investigation and examination reports, Section 18394, Financial Code.
In forma pauperis litigant, rules governing confidentiality of financial information, Section 68511.3, Government Code.
Initiative, referendum, recall, and other petitions, confidentiality of names of signers, Section 6253.5, Government Code.
Inspector General, Youth and Adult Correctional Agency, confidentiality of records of employee interviews, Section 6127, Penal Code.
Insurance claims analysis, confidentiality of information, Section 1875.16, Insurance Code.
Insurance Commissioner, confidential information, Sections 735.5, 1077.3, and 12919, Insurance Code.
Insurance Commissioner, informal conciliation of complaints, confidential communications, Section 1858.02, Insurance Code.
Insurance Commissioner, information from examination or investigation, confidentiality of, Sections 1215.7, 1433, and 1759.3, Insurance Code.
Insurance Commissioner, report to Legislature, confidential information, Section 12961, Insurance Code.
Insurance Commissioner, writings filed with nondisclosure, Section 855, Insurance Code.
Insurance fraud reporting, information acquired not part of public record, Section 1873.1, Insurance Code.
Insurance Holding Company System Regulatory Act, examinations, Section 1215.7, Insurance Code.
Insurance licensee, confidential information, Section 1666.5, Insurance Code.
Insurer application information, confidentiality of, Section 925.3, Insurance Code.
Insurer financial analysis ratios and examination synopses, confidentiality of, Section 933, Insurance Code.
Insurer, request for examination of, confidentiality of, Section 1067.11, Insurance Code.
Integrated Waste Management Board information, prohibition against disclosure, Section 45982, Revenue and Taxation Code.
Intervention in regulatory and ratemaking proceedings, audit of customer seeking and award, Section 1804, Public Utilities Code.
Investigative consumer reporting agency, limitations on furnishing an investigative consumer report, Section

1786.12, Civil Code.

§ 6276.28. "Joint Legislative Ethics Committee" to "Long-term health facilities"

Joint Legislative Ethics Committee, confidentiality of reports and records, Section 8953, Government Code.

Judicial candidates, confidentiality of communications concerning, Section 12011.5, Government Code.

Jurors' lists, lists of registered voters and licensed drivers as source for, Section 197, Code of Civil Procedure.

Juvenile court proceedings to adjudge a person a dependent child of court, sealing records of, Section 389, Welfare and Institutions Code.

Juvenile criminal records, dissemination to schools, Section 828.1, Welfare and Institutions Code.

Juvenile delinquents, notification of chief of police or sheriff of escape of minor from secure detention facility, Section 1155, Welfare and Institutions Code.

Labor dispute, investigation and mediation records, confidentiality of, Section 65, Labor Code.

anterman-Petris-Short Act, mental health services recipients, confidentiality of information and records, mental health advocate, Sections 5540, 5541, 5542, and 5550, Welfare and Institutions Code.

Law enforcement vehicles, registration disclosure, Section 5003, Vehicle Code.

Legislative Counsel records, subdivision (m), Section 6254, Government Code.

Library circulation records and other materials, subdivision (i), Section 6254 and Section 6267, Government Code.

Life and disability insurers, actuarial information, confidentiality of, Section 10489.15, Insurance Code.

Litigation, confidentiality of settlement information, Section 68513, Government Code.

Local agency legislative body, closed sessions, disclosure of materials, Section 54956.9, Government Code.

Local government employees, confidentiality of records and claims relating to group insurance, Section 53202.25, Government Code.

Local summary criminal history information, confidentiality of, Sections 13300 and 13305, Penal Code.

Local agency legislative body, closed session, nondisclosure of minute book, Section 54957.2, Government Code.

Local agency legislative body, meeting, disclosure of agenda, Section 54957.5, Government Code.

Long-term health facilities, confidentiality of complaints against, Section 1419, Health and Safety Code.

Long-term health facilities, confidentiality of records retained by State Department of Health Services, Section 1439, Health and Safety Code.

§ 6276.30. "Major Risk Medical Insurance Program" to "Multijurisdictional drug law enforcement agency"

Major Risk Medical Insurance Program, negotiations with health plans, subdivisions (v) and (w) of Section 6254, Government Code.

Mandated blood testing and confidentiality to protect public health, prohibition against compelling identification of test subjects, Section 120975, Health and Safety Code.

Mandated blood testing and confidentiality to protect public health, unauthorized disclosures of identification of test subjects, Section 120980, Health and Safety Code.

Mandated blood testing and confidentiality to protect public health, disclosure to patient's spouse, sexual partner, needle sharer, or county health officer, Section 121015, Health and Safety Code.

Manufactured home, mobilehome, floating home, confidentiality of home address of registered owner, Section 18081, Health and Safety Code.

Marital confidential communications, Sections 980, 981, 982, 983, 984, 985, 986, and 987, Evidence Code.

Market reports, confidential, subdivision (e), Section 6254, Government Code.

Marketing of commodities, confidentiality of financial information, Section 58781, Food and Agricultural Code.
Marketing orders, confidentiality of processors or distributors' information, Section 59202, Food and Agricultural Code.
Marriage, confidential, certificate, Section 511, Family Code.
Medi-Cal Benefits Program, confidentiality of information, Section 14100.2, Welfare and Institutions Code.
Medi-Cal Benefits Program, Evaluation Committee, confidentiality of information, Section 14132.6, Welfare and Institutions Code.
Medi-Cal Benefits Program, Request of Department for Records of Information, Section 14124.89, Welfare and Institutions Code.
Medi-Cal Fraud Bureau, confidentiality of complaints, Section 12528, Government Code.
Medical information, disclosure by provider unless prohibited by patient in writing, Section 56.16, Civil Code.
Medical information, types of information not subject to patient prohibition of disclosure, Section 56.30, Civil Code.
Medical and other hospital committees and peer review bodies, confidentiality of records, Section 1157, Evidence Code.
Medical or dental licensee, action for revocation or suspension due to illness, report, confidentiality of, Section 828, Business and Professions Code.
Medical or dental licensee, disciplinary action, denial or termination of staff privileges, report, confidentiality of, Sections 805, 805.1, and 805.5, Business and Professions Code.
Meetings of state agencies, disclosure of agenda, Section 11125.1, Government Code.
Mental institution patient, notification to peace officers of escape, Section 7325.5, Welfare and Institutions Code.
Mentally abnormal sex offender committed to state hospital, confidentiality of records, Section 4135, Welfare and Institutions Code.
Mentally disordered and developmentally disabled offenders, access to criminal histories of, Section 1620, Penal Code.
Mentally disordered persons, court-ordered evaluation, confidentiality of reports, Section 5202, Welfare and Institutions Code.
Mentally disordered or mentally ill person, confidentiality of written consent to detainment, Section 5326.4, Welfare and Institutions Code.
Mentally disordered or mentally ill person, voluntarily or involuntarily detained and receiving services, confidentiality of records and information, Sections 5328, 5328.01, 5328.02, 5328.05, 5328.1, 5328.15, 5328.2, 5328.3, 5328.4, 5328.5, 5328.7, 5328.8, 5328.9, and 5330, Welfare and Institutions Code.
Mentally disordered or mentally ill person, weapons restrictions, confidentiality of information about, Section 8103, Welfare and Institutions Code.
Milk marketing, confidentiality of records, Section 61443, Food and Agricultural Code.
Milk product certification, confidentiality of, Section 62121, Food and Agricultural Code.
Milk, market milk, confidential records and reports, Section 62243, Food and Agricultural Code.
Milk product registration, confidentiality of information, Section 38946, Food and Agricultural Code.
Milk equalization pool plan, confidentiality of producers' voting, Section 62716, Food and Agricultural Code.
Mining report, confidentiality of report containing information relating to mineral production, reserves, or rate of depletion of mining operation, Section 2207, Public Resources Code.
Minor, criminal proceeding testimony closed to public, Section 859.1, Penal Code.
Minority and women's business data possessed by state agencies, confidentiality of, Section 15339.30, Government Code.
Minors, material depicting sexual conduct, records of suppliers to be kept and made available to law

enforcement, Section 1309.5, Labor Code.
Misdemeanor and felony reports by police chiefs and sheriffs to Department of Justice, confidentiality of, Sections 11107 and 11107.5, Penal Code.
Monetary instrument transaction records, confidentiality of, Section 14167, Penal Code.
Missing persons' information, disclosure of, Sections 14201 and 14203, Penal Code.
Morbidity and mortality studies, confidentiality of records, Section 100330, Health and Safety Code.
Motor vehicle accident reports, disclosure, Sections 16005, 20012, and 20014, Vehicle Code.
Motor vehicles, department of, public records, exceptions, Sections 1808 to 1808.7, inclusive, Vehicle Code.
Motor vehicle insurance fraud reporting, confidentiality of information acquired, Section 1874.3, Insurance Code.
Motor vehicle liability insurer, data reported to Department of Insurance, confidentiality of, Section 11628, Insurance Code.
Multijurisdictional drug law enforcement agency, closed sessions to discuss criminal investigation, Section 54957.8, Government Code.

§ 6276.32. "Narcotic addict outpatient revocation proceeding" to "Osteopathic physician and surgeon"

Narcotic addict outpatient revocation proceeding, confidentiality of reports, Section 3152.5, Welfare and Institutions Code.
Narcotic and drug abuse patients, confidentiality of records, Section 11977, Health and Safety Code.
Native American graves, cemeteries and sacred places, records of, subdivision (r), Section 6254, Government Code.
Newspaper, radio, or television employee, nondisclosure of source of information, Section 1070, Evidence Code.
Notary public, confidentiality of application for appointment and commission, Section 8201.5, Government Code.
Nurse, alcohol or dangerous drug diversion and rehabilitation records, confidentiality of, Section 2770.12, Business and Professions Code.
Obscene matter, defense of scientific or other purpose, confidentiality of recipients, Section 311.8, Penal Code.
Occupational safety and health investigations, confidentiality of complaints and complainants, Section 6309, Labor Code.
Occupational safety and health investigations, confidentiality of trade secrets, Section 6322, Labor Code.
Official information acquired in confidence by public employee, disclosure of, Sections 1040 and 1041, Evidence Code.
Oil and gas, confidentiality of proposals for the drilling of a well, Section 3724.4, Public Resources Code.
Oil and gas, disclosure of onshore and offshore exploratory well records, Section 3234, Public Resources Code.
Oil and gas, disclosure of well records, Section 3752, Public Resources Code.
Oil and gas leases, surveys for permits, confidentiality of information, Section 6826, Public Resources Code.
Oil spill feepayer information, prohibition against disclosure, Section 46751, Revenue and Taxation Code.
Older adults receiving county services, providing information between county agencies, confidentiality of, Section 9401, Welfare and Institutions Code.
Organic food certification organization records, release of, Section 110845, Health and Safety Code, and Section 46009, Food and Agricultural Code.
Osteopathic physician and surgeon, rehabilitation and diversion records,

§ 6276.34. "Parole revocation proceedings" to "Postmortem or autopsy photos"

Parole revocation proceedings, confidentiality of information in reports, Section 3063.5, Penal Code.
Passenger fishing boat licenses, records, Section 7923, Fish and Game Code.
Paternity, acknowledgement, confidentiality of records, Section 102760, Health and Safety Code.
Patient-physician confidential communication, Sections 992 and 994, Evidence Code.
Patient records, confidentiality of, Section 123135, Health and Safety Code.
Payment instrument licensee records, inspection of, Section 33206, Financial Code.
Payroll records, confidentiality of, Section 1776, Labor Code.
Peace officer personnel records, confidentiality of, Sections 832.7 and 832.8, Penal Code.
Penitential communication between penitent and clergy, Sections 1032 and 1033, Evidence Code.
Personal Income Tax, disclosure of information, Article 2 (commencing with Section 19542), Chapter 7, Part 10.2, Division 2, Revenue and Taxation Code.
Personal information, information practices act, prohibitions against disclosure by state agencies, Sections 1798.24 and 1798.75, Civil Code.
Personal information, subpoena of records containing, Section 1985.4, Code of Civil Procedure.
Personal representative, confidentiality of personal representative's birth date and driver's license number, Section 8404, Probate Code.
Personnel Administration, Department of, confidentiality of pay data furnished to, Section 19826.5, Government Code.
Petition signatures, Section 18650, Elections Code.
Petroleum supply and pricing, confidential information, Sections 25364 and 25366, Public Resources Code.
Pharmacist, alcohol or dangerous drug diversion and rehabilitation records, confidentiality of, Section 4436, Business and Professions Code.
Physical therapist or assistant, records of dangerous drug or alcohol diversion and rehabilitation, confidentiality of, Section 2667, Business and Professions Code.
Physical or mental condition or conviction of controlled substance offense, records in Department of Motor Vehicles, confidentiality of, Section 1808.5, Vehicle Code.
Physician and surgeon, rehabilitation and diversion records, confidentiality of, Section 2355, Business and Professions Code.
Physician assistant, alcohol or dangerous drug diversion and rehabilitation records, confidentiality of, Section 3534.7, Business and Professions Code.
Physician competency examination, confidentiality of reports, Section 2294, Business and Professions Code.
Physicians and surgeons, confidentiality of reports of patients with a lapse of consciousness disorder, Section 103900, Health and Safety Code.
Physician Services Account, confidentiality of patient names in claims, Section 16956, Welfare and Institutions Code.
Podiatrist, alcohol or drug diversion and rehabilitation records, confidentiality of, Section 2497.1, Business and Professions Code.
Pollution Control Financing Authority, financial data submitted to, subdivision (o), Section 6254, Government Code.
Postmortem or autopsy photos, Section 129, Code of Civil Procedure.

§ 6276.36. "Pregnancy tests" to "Pupil records"

Pregnancy tests by local public health agencies, confidentiality of, Section 123380, Health and Safety Code.
Pregnant women, confidentiality of blood tests, Section 125105, Health and Safety Code.

Prehospital emergency medical care, release of information, Sections 1797.188 and 1797.189, Health and Safety Code.
Prenatal syphilis tests, confidentiality of, Section 120705, Health and Safety Code.
Presiding Officer, Section 11430.40, Government Code.
Prisoners, behavioral research on, confidential personal information, Section 3515, Penal Code.
Prisoners, confidentiality of blood tests, Section 7530, Penal Code.
Prisoners, medical testing, confidentiality of records, Sections 7517 and 7540, Penal Code.
Prisoners, transfer from county facility for mental treatment and evaluation, confidentiality of written reasons, Section 4011.6, Penal Code.
Private industry wage data collected by public entity, confidentiality of, Section 6254.6, Government Code.
Private railroad car tax, confidentiality of information, Section 11655, Revenue and Taxation Code.
Probate referee, disclosure of materials, Section 8908, Probate Code.
Probation officer reports, inspection of, Section 1203.05, Penal Code.
Produce dealer, confidentiality of financial statements, Section 56254, Food and Agricultural Code.
Products liability insurers, transmission of information, Sections 1857.7 and 1857.9, Insurance Code.
Professional corporations, financial statements, confidentiality of, Section 13406, Corporations Code.
Property on loan to museum, notice of intent to preserve an interest in, not subject to disclosure, Section 1899.5, Civil Code.
Property taxation, confidentiality of change of ownership, Section 481, Revenue and Taxation Code.
Property taxation, confidentiality of property information, Section 15641, Government Code and Section 833, Revenue and Taxation Code.
Proprietary information, availability only to the director and other persons authorized by the operator and the owner, Section 2778, Public Resources Code.
Psychologist and client, confidential relations and communications, Section 2918, Business and Professions Code.
Psychotherapist-patient confidential communication, Sections 1012 and 1014, Evidence Code.
Public employees' home addresses and telephone numbers, confidentiality of, Section 6254.3, Government Code.
Public Employees' Retirement System, confidentiality of data filed by member or beneficiary with board of administration, Section 20134, Government Code.
Public school employees organization, confidentiality of proof of majority support submitted to Public Employment Relations Board, Sections 3544, 3544.1, and 3544.5, Government Code.
Public social services, confidentiality of digest of decisions, Section 10964, Welfare and Institutions Code.
Public social services, confidentiality of information regarding child abuse or elder or dependent persons abuse, Section 10850.1, Welfare and Institutions Code.
Public social services, confidentiality of information regarding eligibility, Section 10850.2, Welfare and Institutions Code.
Public social services, confidentiality of records, Section 10850, Welfare and Institutions Code.
Public social services, disclosure of information to law enforcement agencies, Section 10850.3, Welfare and Institutions Code.
Public social services, disclosure of information to law enforcement agencies regarding deceased applicant or recipient, Section 10850.7, Welfare and Institutions Code.
Public utilities, confidentiality of information, Section 583, Public Utilities Code.
Pupil, confidentiality of personal information, Section 45345, Education Code.
Pupil drug and alcohol use questionnaires, confidentiality of, Section 11605, Health and Safety Code.
Pupil, expulsion hearing, disclosure of testimony of witness and closed session of district board, Section 48918, Education Code.

Pupil, personal information disclosed to school counselor, confidentiality of, Section 49602, Education Code.
Pupil record contents, records of administrative hearing to change contents, confidentiality of, Section 49070, Education Code.
Pupil records, access authorized for specified parties, Section 49076, Education Code.
Pupil records, disclosure in hearing to dismiss or suspend school employee, Section 44944.1, Education Code.
Pupil records, release of directory information to private entities, Sections 49073 and 49073.5, Education Code.

§ 6276.38. "Radioactive materials" to "Reward by governor"

Radioactive materials, dissemination of information about transportation of, Section 33002, Vehicle Code.
Real estate broker, annual report to Department of Real Estate of financial information, confidentiality of, Section 10232.2, Business and Professions Code.
Real property, acquisition by state or local government, information relating to feasibility, subdivision (h), Section 6254, Government Code.
Real property, change in ownership statement, confidentiality of, Section 27280, Government Code.
Reciprocal agreements with adjoining states, Section 391, Fish and Game Code.
Records of contract purchasers, inspection by public prohibited, Section 85, Military and Veterans Code.
Registered public obligations, inspection of records of security interests in, Section 5060, Government Code.
Registration of exempt vehicles, nondisclosure of name of person involved in alleged violation, Section 5003, Vehicle Code.
Rehabilitation, Department of, confidential information, Section 19016, Welfare and Institutions Code.
Reinsurance intermediary-broker license information, confidentiality of, Section 1781.3, Insurance Code.
Rent control ordinance, confidentiality of information concerning accommodations sought to be withdrawn from, Section 7060.4, Government Code.
Report of probation officer, inspection, copies, Section 1203.05, Penal Code.
Repossession agency licensee application, confidentiality of information, Sections 7503, 7504, and 7506.5, Business and Professions Code.
Residence address in any record of Department of Housing and Community Development, confidentiality of, Section 6254.1, Government Code.
Residence address in any record of Department of Motor Vehicles, confidentiality of, Section 6254.1, Government Code, and Section 1808.21, Vehicle Code.
Residence and mailing addresses in records of Department of Motor Vehicles, confidentiality of, Section 1810.7, Vehicle Code.
Residential care facilities, confidentiality of resident information, Section 1568.08, Health and Safety Code.
Residential care facilities for the elderly, confidentiality of client information, Section 1569.315, Health and Safety Code.
Respiratory care practitioner, professional competency examination reports, confidentiality of, Section 3756, Business and Professions Code.
Restraint of trade, civil action by district attorney, confidential memorandum, Section 16750, Business and Professions Code.
Reward by governor for information leading to arrest and conviction, confidentiality of person supplying information, Section 1547, Penal Code.

§ 6276.40. "Sales and use tax" to "Social security number"

Sales and use tax, disclosure of information, Section 7056, Revenue and Taxation Code.
Savings association employees, disclosure of criminal history information, Sections 6525 and 8012,

Financial Code.
Savings associations, inspection of records by shareholders, Section 6050, Financial Code.
School district governing board, disciplinary action, disclosure of pupil information, Section 35146, Education Code.
School employee, merit system examination records, confidentiality of, Section 45274, Education Code.
School employee, notice and reasons for hearing on nonreemployment of employee, confidentiality of, Sections 44948.5 and 44949, Education Code.
School meals for needy pupils, confidentiality of records, Section 49558, Education Code.
Sealed records, arrest for misdemeanor, Section 851.7, Penal Code.
Sealed records, misdemeanor convictions, Section 1203.45, Penal Code.
Sealing and destruction of arrest records, determination of innocence, Section 851.8, Penal Code.
Search warrants, special master, Section 1524, Penal Code.
Sex change, confidentiality of birth certificate, Section 103440, Health and Safety Code.
Sex offenders, registration form, Section 290, Penal Code.
Sex offenders, specimen and other information, unauthorized disclosure, Section 290.2, Penal Code.
Sexual assault forms, confidentiality of, Section 13823.5, Penal Code.
Sexual assault victim counselor and victim, confidential communication, Sections 1035.2, 1035.4, and 1035.8, Evidence Code.
Shorthand reporter's complaint, Section 8010, Business and Professions Code.
Small business information compiled by state agencies, confidentiality of, Section 15331.2, Government Code.
Small family day care homes, identifying information, Section 1596.86, Health and Safety Code.
Social security number, applicant for driver's license or identification card, disclosure of, Section 1653.5, Vehicle Code.

§ 6276.42. "State agency activities" to "Sturgeon egg processors"
State agency activities relating to unrepresented employees, subdivision (p) of Section 6254, Government Code.
State agency activities relating to providers of health care, subdivision (a) of Section 6254, Government Code.
State Auditor, access to barred records, Section 8545.2, Government Code.
State Auditor, confidentiality of records, Sections 8545, 8545.1, and 8545.3, Government Code.
State civil service employee, confidentiality of appeal to state personnel board, Section 18952, Government Code.
State civil service employees, confidentiality of reports, Section 18573, Government Code.
State civil service examination, confidentiality of application and examination materials, Section 18934, Government Code.
State Contract Act, bids, questionnaires and financial statements, Section 10165, Public Contract Code.
State Contract Act, bids, sealing, opening and reading bids, Section 10304, Public Contract Code.
State Energy Resources Conservation and Development Commission, confidentiality of proprietary information submitted to, Sections 25223 and 25321, Public Resources Code.
State hospital patients, information and records in possession of Superintendent of Public Instruction, confidentiality of, Section 56863, Education Code.
State information security officer, implementation of confidentiality policies, Section 11771, Government Code.
State Long-Term Care Ombudsman, access to government agency records, Section 9723, Welfare and Institutions Code.

State Long-Term Care Ombudsman office, confidentiality of records and files, Section 9725, Welfare and Institutions Code.
State Long-Term Care Ombudsman office, disclosure of information or communications, Section 9715, Welfare and Institutions Code.
State Lottery Evaluation Report, disclosure, Section 8880.46, Government Code.
State summary criminal history information, confidentiality of information, Sections 11105, 11105.1, 11105.3, and 11105.4, Penal Code.
Sterilization of disabled, confidentiality of evaluation report, Section 1955, Probate Code.
Strawberry marketing information, confidentiality of, Section 63124, Food and Agricultural Code.
Structural pest control licensee records relating to pesticide use, confidentiality of, Section 15205, Food and Agricultural Code.
Student driver, records of physical or mental condition, confidentiality of, Section 12661, Vehicle Code.
Student, community college, information received by school counselor, confidentiality of, Section 72621, Education Code.
Student, community college, records, limitations on release, Section 76243, Education Code.
Student, community college, record contents, records of administrative hearing to change contents, confidentiality of, Section 76232, Education Code.
Student, sexual assault on private higher education institution campus, confidentiality of information, Section 94385, Education Code.
Student, sexual assault on public college or university, confidentiality of information, Section 67385, Education Code.
Student in public college or university, record of disciplinary action for sexual assault or physical abuse, access by alleged victim, Section 67134, Education Code.
Student, release of directory information by public college or university, Section 67140, Education Code.
Sturgeon egg processors, records, Section 10004, Fish and Game Code.

§ 6276.44. "Taxpayer information" to "Trust companies"
Taxpayer information, confidentiality, local taxes, subdivision (i), Section 6254, Government Code.
Tax preparer, disclosure of information obtained in business of preparing tax returns, Section 17530.5, Business and Professions Code.
Teacher, credential holder or applicant, information provided to Commission on Teacher Credentialing, confidentiality of, Section 44341, Education Code.
Teacher, certified school personnel examination results, confidentiality of, Section 44289, Education Code.
Teacher, information filed with Teachers' Retirement Board, confidentiality of, Section 22221, Education Code.
Telephone answering service customer list, trade secret, Section 16606, Business and Professions Code.
Timber yield tax, disclosure to county assessor, Section 38706, Revenue and Taxation Code.
Timber yield tax, disclosure of information, Section 38705, Revenue and Taxation Code.
Title insurers, confidentiality of notice of noncompliance, Section 12414.14, Insurance Code.
Tow truck driver, information in records of California Highway Patrol, Department of Motor Vehicles, or other agencies, confidentiality of, Sections 2431 and 2432.3, Vehicle Code.
Toxic substances, Department of, inspection of records of, Section 25152.5, Health and Safety Code.
Trade secrets, Section 1060, Evidence Code.
Trade secrets, confidentiality of, occupational safety and health inspections, Section 6322, Labor Code.
Trade secrets, disclosure of public records, Section 3426.7, Civil Code.
Trade secrets, food, drugs, cosmetics, nondisclosure, Sections 110165 and 110370, Health and Safety Code.

Trade secrets, protection by Director of the Department of Pesticide Regulation, Section 6254.2, Government Code.
Trade secrets and proprietary information relating to pesticides, confidentiality of, Sections 14022 and 14023, Food and Agricultural Code.
Trade secrets, protection by Director of Industrial Relations, Section 6396, Labor Code.
Trade secrets relating to hazardous substances, disclosure of, Sections 25358.2 and 25358.7, Health and Safety Code.
Traffic violator school licensee records, confidentiality of, Section 11212, Vehicle Code.
Traffic offense, dismissed for participation in driving school or program, record of, confidentiality of, Section 1808.7, Vehicle Code.
Transit districts, questionnaire and financial statement information in bids, Section 99154, Public Utilities Code.
Trust companies, disclosure of private trust confidential information, Section 1582, Financial Code.

§ 6276.46. "Unclaimed property" to "Wards and dependent children, inspection of juvenile court documents"

Unclaimed property, Controller records of, disclosure, Section 1582, Code of Civil Procedure.
Unemployment compensation, disclosure of confidential information, Section 2111, Unemployment Insurance Code.
Unemployment compensation, information obtained in administration of code, Section 1094, Unemployment Insurance Code.
Unemployment compensation, purposes for which use of information may be authorized, Section 1095, Unemployment Insurance Code.
Unemployment fund contributions, publication of annual tax rate, Section 989, Unemployment Insurance Code.
Unsafe working condition, confidentiality of complainant, Section 6309, Labor Code.
Use fuel tax information, disclosure prohibited, Section 9255, Revenue and Taxation Code.
Utility systems development, confidential information, subdivision (e), Section 6254, Government Code.
Vehicle registration, financial responsibility verification study, confidentiality of information, Sections 4750.2 and 4750.4, Vehicle Code.
Vehicle accident reports, disclosure of, Sections 16005, 20012, and 20014, Vehicle Code and Section 27177, Streets and Highways Code.
Vehicular offense, record of, confidentiality five years after conviction, Section 1807.5, Vehicle Code.
Veterans Affairs, Department of, confidentiality of records of contract purchasers, Section 85, Military and Veterans Code.
Veterinarian or animal health technician, alcohol or dangerous drugs diversion and rehabilitation records, confidentiality of, Section 4871, Business and Professions Code.
Victim, statements at sentencing, Section 1191.15, Penal Code.
Victims' Legal Resource Center, confidentiality of information and records retained, Section 13897.2, Penal Code.
Voter, registration by confidential affidavit, Section 2194, Elections Code.
Voter registration card, confidentiality of information contained in, Section 6254.4, Government Code.
Voting, secrecy, Section 1050, Evidence Code.
Wards and dependent children, inspection of juvenile court documents, Section 827, Welfare and Institutions Code.

§ 6276.48. "Wards and dependent children, release of description information about minor escapees" to "Youth service bureau"

Wards and dependent children, release of description information about minor escapees, Section 828, Welfare and Institutions Code.

Wards, petition for sealing records, Section 781, Welfare and Institutions Code.

Welfare, statewide automated system work plan, confidentiality of data on individuals, Section 10818, Welfare and Institutions Code.

Wills, confidentiality of, Section 6389, Probate Code.

Winegrowers of California commission, confidentiality of producers' or vintners' proprietary information, Sections 74655 and 74955, Food and Agricultural Code.

Workers' Compensation Appeals Board, injury or illness report, confidentiality of, Section 6412, Labor Code.

Workers' compensation insurance, dividend payment to policyholder, confidentiality of information, Section 11739, Insurance Code.

Workers' compensation insurance fraud reporting, confidentiality of information, Sections 1877.3 and 1877.4, Insurance Code.

Workers' compensation insurer or rating organization, confidentiality of notice of noncompliance, Section 11754, Insurance Code.

Workers' compensation insurer, rating information, confidentiality of, Section 11752.7, Insurance Code.

Workers' compensation, notice to correct noncompliance, Section 11754, Insurance Code.

Workers' compensation, release of information to other governmental agencies, Section 11752.5, Insurance Code.

Workers' compensation, self-insured employers, confidentiality of financial information, Section 3742, Labor Code.

Workplace inspection photographs, confidentiality of, Section 6314, Labor Code.

Youth Authority, parole revocation proceedings, confidentiality of, Section 1767.6, Welfare and Institutions Code.

Youth Authority, release of information in possession of Youth Authority for offenses under Sections 676, 1764.1, and 1764.2, Welfare and Institutions Code.

Youth Authority, records, policies, and procedures, Section 1905, Welfare and Institutions Code.

Youth Authority, records, disclosure, Section 1764, Welfare and Institutions Code.

Youth Authority parolee, disclosure of personal information in revocation proceedings, Section 1767.6, Welfare and Institutions Code.

Youth service bureau, confidentiality of client records, Section 1905, Welfare and Institutions Code.

THE BROWN ACT

(Government Code sections 54950 et. seq.)

GOVERNMENT CODE
TITLE 5. LOCAL AGENCIES
DIVISION 2. CITIES, COUNTIES AND OTHER AGENCIES
PART 1. POWERS AND DUTIES COMMON TO CITIES, CO UNTIES, AND OTHER AGENCIES
CHAPTER 9. MEETINGS

§ 54950. Declaration, intent; sovereignty

In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

§ 54950.5. Short title

This chapter shall be known as the Ralph M. Brown Act.

§ 54951. Local agency

As used in this chapter, "local agency" means a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission or agency thereof, or other local public agency.

§ 54952. Legislative body, definition

As used in this chapter, "legislative body" means:

(a) The governing body of a local agency or any other local body created by state or federal statute.

(b) A commission, committee, board, or other body of a local agency, whether permanent or temporary, decisionmaking or advisory, created by charter, ordinance, resolution, or formal action of a legislative body. However, advisory committees, composed solely of the members of the legislative body which are less than a quorum of the legislative body are not legislative bodies, except that standing committees of a legislative body, irrespective of their composition, which have a continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body are legislative bodies for purposes of this chapter.

(c)(1) A board, commission, committee, or other multimember body that governs a private corporation or entity that either:

(A) Is created by the elected legislative body in order to exercise authority that may lawfully be delegated by the elected governing body to a private corporation or entity.

(B) Receives funds from a local agency and the membership of whose governing body includes a member of the legislative body of the local agency appointed to that governing body as a full voting member by the legislative body of the local agency.

(2) Notwithstanding subparagraph (B) of paragraph (1), no board, commission, committee, or other multimember body that governs a private corporation or entity that receives funds from a local agency and, as of February 9, 1996, has a member of the legislative body of the local agency as a full voting member of the governing body of that private corporation or entity shall be relieved from the public meeting requirements of this chapter by virtue of a change in status of the full voting member to a nonvoting member.

(d) The lessee of any hospital the whole or part of which is first leased pursuant to subdivision (p) of

authority of a legislative body of a local agency delegated to it by that legislative body whether the lessee is organized and operated by the local agency or by a delegated authority.

§ 54952.1. Member of a legislative body of a local agency; conduct

Any person elected to serve as a member of a legislative body who has not yet assumed the duties of office shall conform his or her conduct to the requirements of this chapter and shall be treated for purposes of enforcement of this chapter as if he or she has already assumed office.

§ 54952.2. Meeting; prohibited devices for obtaining collective concurrence; exclusions from chapter

(a) As used in this chapter, "meeting" includes any congregation of a majority of the members of a legislative body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the legislative body or the local agency to which it pertains.

(b) Except as authorized pursuant to Section 54953, any use of direct communication, personal intermediaries, or technological devices that is employed by a majority of the members of the legislative body to develop a collective concurrence as to action to be taken on an item by the members of the legislative body is prohibited.

(c) Nothing in this section shall impose the requirements of this chapter upon any of the following:

(1) Individual contacts or conversations between a member of a legislative body and any other person.

(2) The attendance of a majority of the members of a legislative body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the legislative body, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the subject matter jurisdiction of the local agency. Nothing in this paragraph is intended to allow members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance.

(3) The attendance of a majority of the members of a legislative body at an open and publicized meeting organized to address a topic of local community concern by a person or organization other than the local agency, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(4) The attendance of a majority of the members of a legislative body at an open and noticed meeting of another body of the local agency, or at an open and noticed meeting of a legislative body of another local agency, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(5) The attendance of a majority of the members of a legislative body at a purely social or ceremonial occasion, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(6) The attendance of a majority of the members of a legislative body at an open and noticed meeting of a standing committee of that body, provided that the members of the legislative body who are not members of the standing committee attend only as observers.

§ 54952.6. Action taken

As used in this chapter, "action taken" means a collective decision made by a majority of the members of a legislative body, a collective commitment or promise by a majority of the members of a legislative body to

make a positive or a negative decision, or an actual vote by a majority of the members of a legislative body when sitting as a body or entity, upon a motion, proposal, resolution, order or ordinance.

§ 54952.7. Copies of chapter to members of legislative body of local agencies

A legislative body of a local agency may require that a copy of this chapter be given to each member of the legislative body and any person elected to serve as a member of the legislative body who has not assumed the duties of office. An elected legislative body of a local agency may require that a copy of this chapter be given to each member of each legislative body all or a majority of whose members are appointed by or under the authority of the elected legislative body.

§ 54953. Meetings to be open and public; attendance

(a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b)(1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction. The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) No legislative body shall take action by secret ballot, whether preliminary or final.

§ 54953.1. Testimony of members before grand jury

The provisions of this chapter shall not be construed to prohibit the members of the legislative body of a local agency from giving testimony in private before a grand jury, either as individuals or as a body.

§ 54953.3. Conditions to attendance

A member of the public shall not be required, as a condition to attendance at a meeting of a legislative body of a local agency, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance.

If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to the persons present during the meeting, it shall

state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.

§ 54953.5. Right to record proceedings; conditions; tape or film records made by or under direction of local agencies

(a) Any person attending an open and public meeting of a legislative body of a local agency shall have the right to record the proceedings with an audio or video tape recorder or a still or motion picture camera in the absence of a reasonable finding by the legislative body of the local agency that the recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings.

(b) Any tape or film record of an open and public meeting made for whatever purpose by or at the direction of the local agency shall be subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), but, notwithstanding Section 34090, may be erased or destroyed 30 days after the taping or recording. Any inspection of a video or tape recording shall be provided without charge on a video or tape player made available by the local agency.

§ 54953.6. Prohibitions or restrictions on broadcasts of proceedings of legislative body; reasonable findings

No legislative body of a local agency shall prohibit or otherwise restrict the broadcast of its open and public meetings in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings.

§ 54953.7. Allowance of greater access to meetings than minimal standards in this chapter

Notwithstanding any other provision of law, legislative bodies of local agencies may impose requirements upon themselves which allow greater access to their meetings than prescribed by the minimal standards set forth in this chapter. In addition thereto, an elected legislative body of a local agency may impose such requirements on those appointed legislative bodies of the local agency of which all or a majority of the members are appointed by or under the authority of the elected legislative body.

§ 54954. Time and place of regular meetings; special meetings; emergencies

(a) Each legislative body of a local agency, except for advisory committees or standing committees, shall provide, by ordinance, resolution, bylaws, or by whatever other rule is required for the conduct of business by that body, the time and place for holding regular meetings. Meetings of advisory committees or standing committees, for which an agenda is posted at least 72 hours in advance of the meeting pursuant to subdivision (a) of Section 54954.2, shall be considered for purposes of this chapter as regular meetings of the legislative body.

(b) Regular and special meetings of the legislative body shall be held within the boundaries of the territory over which the local agency exercises jurisdiction, except to do any of the following:

(1) Comply with state or federal law or court order, or attend a judicial or administrative proceeding to which the local agency is a party.

(2) Inspect real or personal property which cannot be conveniently brought within the boundaries of the territory over which the local agency exercises jurisdiction provided that the topic of the meeting is limited to items directly related to the real or personal property.

(3) Participate in meetings or discussions of multiagency significance that are outside the boundaries of a local agency's jurisdiction. However, any meeting or discussion held pursuant to this subdivision shall take place within the jurisdiction of one of the participating local agencies and be noticed by all participating

agencies as provided for in this chapter.

(4) Meet in the closest meeting facility if the local agency has no meeting facility within the boundaries of the territory over which the local agency exercises jurisdiction, or at the principal office of the local agency if that office is located outside the territory over which the agency exercises jurisdiction.

(5) Meet outside their immediate jurisdiction with elected or appointed officials of the United States or the State of California when a local meeting would be impractical, solely to discuss a legislative or regulatory issue affecting the local agency and over which the federal or state officials have jurisdiction.

(6) Meet outside their immediate jurisdiction if the meeting takes place in or nearby a facility owned by the agency, provided that the topic of the meeting is limited to items directly related to the facility.

(7) Visit the office of the local agency's legal counsel for a closed session on pending litigation held pursuant to Section 54956.9, when to do so would reduce legal fees or costs.

(c) Meetings of the governing board of a school district shall be held within the district except under the circumstances enumerated in subdivision (b), or to do any of the following:

(1) Attend a conference on nonadversarial collective bargaining techniques.

(2) Interview members of the public residing in another district with reference to the trustees' potential employment of the superintendent of that district.

(3) Interview a potential employee from another district.

(d) Meetings of a joint powers authority shall occur within the territory of at least one of its member agencies, or as provided in subdivision (b). However, a joint powers authority which has members throughout the state may meet at any facility in the state which complies with the requirements of Section 54961.

(e) If, by reason of fire, flood, earthquake, or other emergency, it shall be unsafe to meet in the place designated, the meetings shall be held for the duration of the emergency at the place designated by the presiding officer of the legislative body or his or her designee in a notice to the local media that have requested notice pursuant to Section 54956, by the most rapid means of communication available at the time.

§ 54954.1. Mailed notice to persons who filed written request; time; duration and renewal of requests; fee

Any person may request that a copy of the agenda, or a copy of all the documents constituting the agenda packet, of any meeting of a legislative body be mailed to that person. Upon receipt of the written request, the legislative body or its designee shall cause the requested materials to be mailed at the time the agenda is posted pursuant to Section 54954.2 and 54956 or upon distribution to all, or a majority of all, of the members of a legislative body, whichever occurs first. Any request for mailed copies of agendas or agenda packets shall be valid for the calendar year in which it is filed, and must be renewed following January 1 of each year. The legislative body may establish a fee for mailing the agenda or agenda packet, which fee shall not exceed the cost of providing the service. Failure of the requesting person to receive the agenda or agenda packet pursuant to this section shall not constitute grounds for invalidation of the actions of the legislative body taken at the meeting for which the agenda or agenda packet was not received.

§ 54954.2. Agenda; posting; action on other matters

(a) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public.

No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by

persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

(b) Notwithstanding subdivision (a), the legislative body may take action on items of business not appearing on the posted agenda under any of the conditions stated below. Prior to discussing any item pursuant to this subdivision, the legislative body shall publicly identify the item.

(1) Upon a determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.

(2) Upon a determination by a two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted as specified in subdivision (a).

(3) The item was posted pursuant to subdivision (a) for a prior meeting of the legislative body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

§ 54954.3. Opportunity for public to address legislative body; adoption of regulations; public criticism of policies

(a) Every agenda for regular meetings shall provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public, before or during the legislative body's consideration of the item, that is within the subject matter jurisdiction of the legislative body, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by subdivision (b) of Section 54954.2. However, the agenda need not provide an opportunity for members of the public to address the legislative body on any item that has already been considered by a committee, composed exclusively of members of the legislative body, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the legislative body. Every notice for a special meeting shall provide an opportunity for members of the public to directly address the legislative body concerning any item that has been described in the notice for the meeting before or during consideration of that item.

(b) The legislative body of a local agency may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker.

(c) The legislative body of a local agency shall not prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

§ 54954.4. Reimbursements to local agencies and school districts for costs

(a) The Legislature hereby finds and declares that Section 12 of Chapter 641 of the Statutes of 1986, authorizing reimbursement to local agencies and school districts for costs mandated by the state pursuant to that act, shall be interpreted strictly. The intent of the Legislature is to provide reimbursement for only those costs which are clearly and unequivocally incurred as the direct and necessary result of compliance with Chapter 641 of the Statutes of 1986.

(b) In this regard, the Legislature directs all state employees and officials involved in reviewing or authorizing claims for reimbursement, or otherwise participating in the reimbursement process, to rigorously review each claim and authorize only those claims, or parts thereof, which represent costs which are clearly and unequivocally incurred as the direct and necessary result of compliance with Chapter 641 of the Statutes of 1986 and for which complete documentation exists. For purposes of Section 54954.2, costs eligible for reimbursement shall only include the actual cost to post a single agenda for any one meeting.

(c) The Legislature hereby finds and declares that complete, faithful, and uninterrupted compliance with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code) is a matter of overriding public importance. Unless specifically stated, no future Budget Act, or related budget enactments, shall, in any manner, be interpreted to suspend, eliminate, or otherwise modify the legal obligation and duty of local agencies to fully comply with Chapter 641 of the Statutes of 1986 in a complete, faithful, and uninterrupted manner.

§ 54954.5. Closed session item descriptions

For purposes of describing closed session items pursuant to Section 54954.2, the agenda may describe closed sessions as provided below. No legislative body or elected official shall be in violation of Section 54954.2 or 54956 if the closed session items were described in substantial compliance with this section. Substantial compliance is satisfied by including the information provided below, irrespective of its format.

(a) With respect to a closed session held pursuant to Section 54956.7:

LICENSE/PERMIT DETERMINATION

Applicant(s): (Specify number of applicants)

(b) With respect to every item of business to be discussed in closed session pursuant to Section 54956.8:

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: (Specify street address, or if no street address, the parcel number or other unique reference, of the real property under negotiation)

Agency negotiator: (Specify names of negotiators attending the closed session)(If circumstances necessitate the absence of a specified negotiator, an agent or designee may participate in place of the absent negotiator so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Negotiating parties: (Specify name of party (not agent))

Under negotiation: (Specify whether instruction to negotiator will concern price, terms of payment, or both)

(c) With respect to every item of business to be discussed in closed session pursuant to Section 54956.9:

CONFERENCE WITH LEGAL COUNSEL--EXISTING LITIGATION

(Subdivision (a) of Section 54956.9)

THE BROWN ACT
(Government Code sections 54950 et. seq.)

Name of case: (Specify by reference to claimant's name, names of parties, case or claim numbers)

or

Case name unspecified: (Specify whether disclosure would jeopardize service of process or existing settlement negotiations)

CONFERENCE WITH LEGAL COUNSEL--ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9: (Specify number of potential cases)

(In addition to the information noticed above, the agency may be required to provide additional information on the agenda or in an oral statement prior to the closed session pursuant to subparagraphs (B) to (E), inclusive, of paragraph (3) of subdivision (b) of Section 54956.9.)

Initiation of litigation pursuant to subdivision (c) of Section 54956.9: (Specify number of potential cases)

(d) With respect to every item of business to be discussed in closed session pursuant to Section 54956.95:

LIABILITY CLAIMS

Claimant: (Specify name unless unspecified pursuant to Section 54961)

Agency claimed against: (Specify name)

(e) With respect to every item of business to be discussed in closed session pursuant to Section 54957:

THREAT TO PUBLIC SERVICES OR FACILITIES

Consultation with: (Specify name of law enforcement agency and title of officer)

PUBLIC EMPLOYEE APPOINTMENT

Title: (Specify description of position to be filled)

PUBLIC EMPLOYMENT

Title: (Specify description of position to be filled)

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: (Specify position title of employee being reviewed)
PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

(No additional information is required in connection with a closed session to consider discipline, dismissal, or release of a public employee. Discipline includes potential reduction of compensation.)

(f) With respect to every item of business to be discussed in closed session pursuant to Section 54957.6:

CONFERENCE WITH LABOR NEGOTIATORS
Agency designated representatives: (Specify names of designated representatives attending the closed session)(If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the absent representative so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Employee organization: (Specify name of organization representing employee or employees in question)

or

Unrepresented employee: (Specify position title of unrepresented employee who is the subject of the negotiations)

(g) With respect to closed sessions called pursuant to Section 54957.8:

CASE REVIEW/PLANNING

(No additional information is required in connection with a closed session to consider case review or planning.)

(h) With respect to every item of business to be discussed in closed session pursuant to Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code:

REPORT INVOLVING TRADE SECRET

Discussion will concern: (Specify whether discussion will concern proposed new service, program, or facility)

Estimated date of public disclosure: (Specify month and year)

HEARINGS

Subject matter: (Specify whether testimony/deliberation will concern staff privileges, report of medical audit committee, or report of quality assurance committee)

(i) With respect to every item of business to be discussed in closed session pursuant to Section 54956.86:

CHARGE OR COMPLAINT INVOLVING INFORMATION PROTECTED BY FEDERAL LAW

(No additional information is required in connection with a closed session to discuss a charge or complaint pursuant to Section 54956.86.)

§ 54954.6. New or increased taxes or assessments; public meetings and public hearings; joint notice requirements

(a)(1) Before adopting any new or increased general tax or any new or increased assessment, the legislative body of a local agency shall conduct at least one public meeting at which local officials shall allow public testimony regarding the proposed new or increased general tax or new or increased assessment in addition to the noticed public hearing at which the legislative body proposes to enact or increase the general tax or assessment.

For purposes of this section, the term "new or increased assessment" does not include any of the following:

(A) A fee that does not exceed the reasonable cost of providing the services, facilities, or regulatory activity for which the fee is charged.

(B) A service charge, rate, or charge, unless a special district's principal act requires the service charge, rate, or charge to conform to the requirements of this section.

(C) An ongoing annual assessment if it is imposed at the same or lower amount as any previous year.

(D) An assessment that does not exceed an assessment formula or range of assessments previously specified in the notice given to the public pursuant to subparagraph (G) of paragraph (2) of subdivision (c) and that was previously adopted by the agency or approved by the voters in the area where the assessment is imposed.

(E) Standby or immediate availability charges.

(2) The legislative body shall provide at least 45 days' public notice of the public hearing at which the legislative body proposes to enact or increase the general tax or assessment. The legislative body shall provide notice for the public meeting at the same time and in the same document as the notice for the public hearing, but the meeting shall occur prior to the hearing.

(b)(1) The joint notice of both the public meeting and the public hearing required by subdivision (a) with respect to a proposal for a new or increased general tax shall be accomplished by placing a display advertisement of at least one-eighth page in a newspaper of general circulation for three weeks pursuant to Section 6063 and by a first-class mailing to those interested parties who have filed a written request with the local agency for mailed notice of public meetings or hearings on new or increased general taxes. The public meeting pursuant to subdivision (a) shall take place no earlier than 10 days after the first publication of the joint notice pursuant to this subdivision. The public hearing shall take place no earlier than seven days after the public meeting pursuant to this subdivision. Notwithstanding paragraph (2) of subdivision (a), the joint notice need not include notice of the public meeting after the meeting has taken place. The public hearing pursuant to subdivision (a) shall take place no earlier than 45 days after the first publication of the joint notice pursuant to this subdivision. Any written request for mailed notices shall be effective for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for mailed notices shall be filed on or before April 1 of each year. The legislative body may establish a reasonable annual charge for sending notices based on the estimated cost of providing the service.

(2) The notice required by paragraph (1) of this subdivision shall include, but not be limited to, the following:

(A) The amount or rate of the tax. If the tax is proposed to be increased from any previous year, the joint notice shall separately state both the existing tax rate and the proposed tax rate increase.

(B) The activity to be taxed.

(C) The estimated amount of revenue to be raised by the tax annually.

(D) The method and frequency for collecting the tax.

(E) The dates, times, and locations of the public meeting and hearing described in subdivision (a).

(F) The phone number and address of an individual, office, or organization that interested persons may contact to receive additional information about the tax.

(c)(1) The joint notice of both the public meeting and the public hearing required by subdivision (a) with respect to a proposal for a new or increased assessment on real property shall be accomplished through a

mailing, postage prepaid, in the United States mail and shall be deemed given when so deposited. The public meeting pursuant to subdivision (a) shall take place no earlier than 10 days after the joint mailing pursuant to this subdivision. The public hearing shall take place no earlier than seven days after the public meeting pursuant to this subdivision. The envelope or the cover of the mailing shall include the name of the local agency and the return address of the sender. This mailed notice shall be in at least 10-point type and shall be given to all property owners proposed to be subject to the new or increased assessment by a mailing by name to those persons whose names and addresses appear on the last equalized county assessment roll or the State Board of Equalization assessment roll, as the case may be.

(2) The joint notice required by paragraph (1) of this subdivision shall include, but not be limited to, the following:

(A) The estimated amount of the assessment per parcel. If the assessment is proposed to be increased from any previous year, the joint notice shall separately state both the amount of the existing assessment and the proposed assessment increase.

(B) A general description of the purpose or improvements that the assessment will fund.

(C) The address to which property owners may mail a protest against the assessment.

(D) The phone number and address of an individual, office, or organization that interested persons may contact to receive additional information about the assessment.

(E) A statement that a majority protest will cause the assessment to be abandoned if the assessment act used to levy the assessment so provides. Notice shall also state the percentage of protests required to trigger an election, if applicable.

(F) The dates, times, and locations of the public meeting and hearing described in subdivision (a).

(G) A proposed assessment formula or range as described in subparagraph (D) of paragraph (1) of subdivision (a) if applicable and that is noticed pursuant to this section.

(3) Notwithstanding paragraph (1), in the case of an assessment that is proposed exclusively for operation and maintenance expenses imposed throughout the entire local agency, or exclusively for operation and maintenance assessments proposed to be levied on 50,000 parcels or more, notice may be provided pursuant to this subdivision or pursuant to paragraph (1) of subdivision (b) and shall include the estimated amount of the assessment of various types, amounts, or uses of property and the information required by subparagraphs (B) to (G), inclusive, of paragraph (2) of subdivision (c).

(4) Notwithstanding paragraph (1), in the case of an assessment proposed to be levied pursuant to Part 2 (commencing with Section 22500) of Division 2 of the Streets and Highways Code by a regional park district, regional park and open- space district, or regional open-space district formed pursuant to Article 3 (commencing with Section 5500) of Chapter 3 of Division 5 of, or pursuant to Division 26 (commencing with Section 35100) of, the Public Resources Code, notice may be provided pursuant to paragraph (1) of subdivision (b).

(d) The notice requirements imposed by this section shall be construed as additional to, and not to supersede, existing provisions of law, and shall be applied concurrently with the existing provisions so as to not delay or prolong the governmental decisionmaking process.

(e) This section shall not apply to any new or increased general tax or any new or increased assessment that requires an election of either of the following:

(1) The property owners subject to the assessment.

(2) The voters within the local agency imposing the tax or assessment.

(f) Nothing in this section shall prohibit a local agency from holding a consolidated meeting or hearing at which the legislative body discusses multiple tax or assessment proposals.

(g) The local agency may recover the reasonable costs of public meetings, public hearings, and notice required by this section from the proceeds of the tax or assessment. The costs recovered for these purposes, whether recovered pursuant to this subdivision or any other provision of law, shall not exceed the

reasonable costs of the public meetings, public hearings, and notice.

(h) Any new or increased assessment that is subject to the notice and hearing provisions of Article XIII C or XIII D of the California Constitution is not subject to the notice and hearing requirements of this section.

§ 54955. Adjournment; adjourned meetings

The legislative body of a local agency may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting the clerk or secretary of the legislative body may declare the meeting adjourned to a stated time and place and he shall cause a written notice of the adjournment to be given in the same manner as provided in Section 54956 for special meetings, unless such notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held within 24 hours after the time of the adjournment. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by ordinance, resolution, by law, or other rule.

§ 54955.1. Continuance

Any hearing being held, or noticed or ordered to be held, by a legislative body of a local agency at any meeting may by order or notice of continuance be continued or recontinued to any subsequent meeting of the legislative body in the same manner and to the same extent set forth in Section 54955 for the adjournment of meetings; provided, that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance of hearing shall be posted immediately following the meeting at which the order or declaration of continuance was adopted or made.

§ 54956. Special meetings; call; notice

A special meeting may be called at any time by the presiding officer of the legislative body of a local agency, or by a majority of the members of the legislative body, by delivering written notice to each member of the legislative body and to each local newspaper of general circulation and radio or television station requesting notice in writing. The notice shall be delivered personally or by any other means and shall be received at least 24 hours before the time of the meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted or discussed. No other business shall be considered at these meetings by the legislative body. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the legislative body a written waiver of notice. The waiver may be given by telegram. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes.

The call and notice shall be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of the public.

§ 54956.5. Emergency meetings in emergency situations

In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a legislative body may hold an emergency meeting without complying with either the 24-hour notice requirement or the 24-hour posting requirement of Section 54956 or both of the notice and posting requirements.

For purposes of this section, "emergency situation" means any of the following:

(a) Work stoppage or other activity which severely impairs public health, safety, or both, as determined

by a majority of the members of the legislative body.

(b) Crippling disaster which severely impairs public health, safety, or both, as determined by a majority of the members of the legislative body.

However, each local newspaper of general circulation and radio or television station which has requested notice of special meetings pursuant to Section 54956 shall be notified by the presiding officer of the legislative body, or designee thereof, one hour prior to the emergency meeting by telephone and all telephone numbers provided in the most recent request of such newspaper or station for notification of special meetings shall be exhausted. In the event that telephone services are not functioning, the notice requirements of this section shall be deemed waived, and the legislative body, or designee of the legislative body, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

Notwithstanding Section 54957, the legislative body shall not meet in closed session during a meeting called pursuant to this section.

All special meeting requirements, as prescribed in Section 54956 shall be applicable to a meeting called pursuant to this section, with the exception of the 24-hour notice requirement.

The minutes of a meeting called pursuant to this section, a list of persons who the presiding officer of the legislative body, or designee of the legislative body, notified or attempted to notify, a copy of the rollcall vote, and any actions taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.

§ 54956.6. Fees

No fees may be charged by the legislative body of a local agency for carrying out any provision of this chapter, except as specifically authorized by this chapter.

§ 54956.7. Closed sessions, license applications; rehabilitated criminals

Whenever a legislative body of a local agency determines that it is necessary to discuss and determine whether an applicant for a license or license renewal, who has a criminal record, is sufficiently rehabilitated to obtain the license, the legislative body may hold a closed session with the applicant and the applicant's attorney, if any, for the purpose of holding the discussion and making the determination. If the legislative body determines, as a result of the closed session, that the issuance or renewal of the license should be denied, the applicant shall be offered the opportunity to withdraw the application. If the applicant withdraws the application, no record shall be kept of the discussions or decisions made at the closed session and all matters relating to the closed session shall be confidential. If the applicant does not withdraw the application, the legislative body shall take action at the public meeting during which the closed session is held or at its next public meeting denying the application for the license but all matters relating to the closed session are confidential and shall not be disclosed without the consent of the applicant, except in an action by an applicant who has been denied a license challenging the denial of the license.

§ 54956.8. Real property transactions; closed meeting with negotiator

Notwithstanding any other provision of this chapter, a legislative body of a local agency may hold a closed session with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the local agency to grant authority to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

However, prior to the closed session, the legislative body of the local agency shall hold an open and public session in which it identifies its negotiators, the real property or real properties which the negotiations

may concern, and the person or persons with whom its negotiators may negotiate.

For purposes of this section, negotiators may be members of the legislative body of the local agency.

For purposes of this section, "lease" includes renewal or renegotiation of a lease.

Nothing in this section shall preclude a local agency from holding a closed session for discussions regarding eminent domain proceedings pursuant to Section 54956.9.

§ 54956.86. Charges or complaints from members of local agency health plans; closed hearings; members' rights

Notwithstanding any other provision of this chapter, a legislative body of a local agency which provides services pursuant to Section 14087.3 of the Welfare and Institutions Code may hold a closed session to hear a charge or complaint from a member enrolled in its health plan if the member does not wish to have his or her name, medical status, or other information that is protected by federal law publicly disclosed. Prior to holding a closed session pursuant to this section, the legislative body shall inform the member, in writing, of his or her right to have the charge or complaint heard in an open session rather than a closed session.

§ 54956.9. Pending litigation; closed session; lawyer-client privilege; notice; memorandum

Nothing in this chapter shall be construed to prevent a legislative body of a local agency, based on advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the local agency in the litigation.

For purposes of this chapter, all expressions of the lawyer-client privilege other than those provided in this section are hereby abrogated. This section is the exclusive expression of the lawyer-client privilege for purposes of conducting closed-session meetings pursuant to this chapter.

For purposes of this section, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

For purposes of this section, litigation shall be considered pending when any of the following circumstances exist:

(a) Litigation, to which the local agency is a party, has been initiated formally.

(b)(1) A point has been reached where, in the opinion of the legislative body of the local agency on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the local agency.

(2) Based on existing facts and circumstances, the legislative body of the local agency is meeting only to decide whether a closed session is authorized pursuant to paragraph (1) of this subdivision.

(3) For purposes of paragraphs (1) and (2), "existing facts and circumstances" shall consist only of one of the following:

(A) Facts and circumstances that might result in litigation against the local agency but which the local agency believes are not yet known to a potential plaintiff or plaintiffs, which facts and circumstances need not be disclosed.

(B) Facts and circumstances, including, but not limited to, an accident, disaster, incident, or transactional occurrence that might result in litigation against the agency and that are known to a potential plaintiff or plaintiffs, which facts or circumstances shall be publicly stated on the agenda or announced.

(C) The receipt of a claim pursuant to the Tort Claims Act or some other written communication from a potential plaintiff threatening litigation, which claim or communication shall be available for public inspection pursuant to Section 54957.5.

(D) A statement made by a person in an open and public meeting threatening litigation on a specific matter within the responsibility of the legislative body.

(E) A statement threatening litigation made by a person outside an open and public meeting on a

specific matter within the responsibility of the legislative body so long as the official or employee of the local agency receiving knowledge of the threat makes a contemporaneous or other record of the statement prior to the meeting, which record shall be available for public inspection pursuant to Section 54957.5. The records so created need not identify the alleged victim of unlawful or tortious sexual conduct or anyone making the threat on their behalf, or identify a public employee who is the alleged perpetrator of any unlawful or tortious conduct upon which a threat of litigation is based, unless the identity of the person has been publicly disclosed.

(F) Nothing in this section shall require disclosure of written communications that are privileged and not subject to disclosure pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1).

(c) Based on existing facts and circumstances, the legislative body of the local agency has decided to initiate or is deciding whether to initiate litigation.

Prior to holding a closed session pursuant to this section, the legislative body of the local agency shall state on the agenda or publicly announce the subdivision of this section that authorizes the closed session. If the session is closed pursuant to subdivision (a), the body shall state the title of or otherwise specifically identify the litigation to be discussed, unless the body states that to do so would jeopardize the agency's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

A local agency shall be considered to be a "party" or to have a "significant exposure to litigation" if an officer or employee of the local agency is a party or has significant exposure to litigation concerning prior or prospective activities or alleged activities during the course and scope of that office or employment, including litigation in which it is an issue whether an activity is outside the course and scope of the office or employment.

§ 54956.95. Closed sessions; insurance pooling; tort liability losses; public liability losses; workers' compensation liability

(a) Nothing in this chapter shall be construed to prevent a joint powers agency formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1, for purposes of insurance pooling, or a local agency member of the joint powers agency, from holding a closed session to discuss a claim for the payment of tort liability losses, public liability losses, or workers' compensation liability incurred by the joint powers agency or a local agency member of the joint powers agency.

(b) Nothing in this chapter shall be construed to prevent the Local Agency Self-Insurance Authority formed pursuant to Chapter 5.5 (commencing with Section 6599.01) of Division 7 of Title 1, or a local agency member of the authority, from holding a closed session to discuss a claim for the payment of tort liability losses, public liability losses, or workers' compensation liability incurred by the authority or a local agency member of the authority.

(c) Nothing in this section shall be construed to affect Section 54956.9 with respect to any other local agency.

§ 54957. Closed sessions; personnel matters; exclusion of witnesses

Nothing contained in this chapter shall be construed to prevent the legislative body of a local agency from holding closed sessions with the Attorney General, district attorney, sheriff, or chief of police, or their respective deputies, on matters posing a threat to the security of public buildings or a threat to the public's right of access to public services or public facilities, or from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee or to hear complaints or charges brought against the employee by another person or employee unless the employee requests a public session.

As a condition to holding a closed session on specific complaints or charges brought against an employee by another person or employee, the employee shall be given written notice of his or her right to have the complaints or charges heard in an open session rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding the session. If notice is not given, any disciplinary or other action taken by the legislative body against the employee based on the specific complaints or charges in the closed session shall be null and void.

The legislative body also may exclude from the public or closed meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the legislative body.

For the purposes of this section, the term "employee" shall include an officer or an independent contractor who functions as an officer or an employee but shall not include any elected official, member of a legislative body or other independent contractors. Nothing in this section shall limit local officials' ability to hold closed session meetings pursuant to Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code. Closed sessions held pursuant to this section shall not include discussion or action on proposed compensation except for a reduction of compensation that results from the imposition of discipline.

§ 54957.1. Closed sessions; public report of action taken

(a) The legislative body of any local agency shall publicly report any action taken in closed session and the vote or abstention of every member present thereon, as follows:

(1) Approval of an agreement concluding real estate negotiations pursuant to Section 54956.8 shall be reported after the agreement is final, as specified below:

(A) If its own approval renders the agreement final, the body shall report that approval and the substance of the agreement in open session at the public meeting during which the closed session is held.

(B) If final approval rests with the other party to the negotiations, the local agency shall disclose the fact of that approval and the substance of the agreement upon inquiry by any person, as soon as the other party or its agent has informed the local agency of its approval.

(2) Approval given to its legal counsel to defend, or seek or refrain from seeking appellate review or relief, or to enter as an amicus curiae in any form of litigation as the result of a consultation under Section 54956.9 shall be reported in open session at the public meeting during which the closed session is held. The report shall identify, if known, the adverse party or parties and the substance of the litigation. In the case of approval given to initiate or intervene in an action, the announcement need not identify the action, the defendants, or other particulars, but shall specify that the direction to initiate or intervene in an action has been given and that the action, the defendants, and the other particulars shall, once formally commenced, be disclosed to any person upon inquiry, unless to do so would jeopardize the agency's ability to effectuate service of process on one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(3) Approval given to its legal counsel of a settlement of pending litigation, as defined in Section 54956.9, at any stage prior to or during a judicial or quasi-judicial proceeding shall be reported after the settlement is final, as specified below:

(A) If the legislative body accepts a settlement offer signed by the opposing party, the body shall report its acceptance and identify the substance of the agreement in open session at the public meeting during which the closed session is held.

(B) If final approval rests with some other party to the litigation or with the court, then as soon as the settlement becomes final, and upon inquiry by any person, the local agency shall disclose the fact of that approval, and identify the substance of the agreement.

(4) Disposition reached as to claims discussed in closed session pursuant to Section 54956.95 shall be reported as soon as reached in a manner that identifies the name of the claimant, the name of the local

agency claimed against, the substance of the claim, and any monetary amount approved for payment and agreed upon by the claimant.

(5) Action taken to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a public employee in closed session pursuant to Section 54957 shall be reported at the public meeting during which the closed session is held. Any report required by this paragraph shall identify the title of the position. The general requirement of this paragraph notwithstanding, the report of a dismissal or of the nonrenewal of an employment contract shall be deferred until the first public meeting following the exhaustion of administrative remedies, if any.

(6) Approval of an agreement concluding labor negotiations with represented employees pursuant to Section 54957.6 shall be reported after the agreement is final and has been accepted or ratified by the other party. The report shall identify the item approved and the other party or parties to the negotiation.

(b) Reports that are required to be made pursuant to this section may be made orally or in writing. The legislative body shall provide to any person who has submitted a written request to the legislative body within 24 hours of the posting of the agenda, or to any person who has made a standing request for all documentation as part of a request for notice of meetings pursuant to Section 54954.1 or 54956, if the requester is present at the time the closed session ends, copies of any contracts, settlement agreements, or other documents that were finally approved or adopted in the closed session. If the action taken results in one or more substantive amendments to the related documents requiring retyping, the documents need not be released until the retyping is completed during normal business hours, provided that the presiding officer of the legislative body or his or her designee orally summarizes the substance of the amendments for the benefit of the document requester or any other person present and requesting the information.

(c) The documentation referred to in paragraph (b) shall be available to any person on the next business day following the meeting in which the action referred to is taken or, in the case of substantial amendments, when any necessary retyping is complete.

(d) Nothing in this section shall be construed to require that the legislative body approve actions not otherwise subject to legislative body approval.

(e) No action for injury to a reputational, liberty, or other personal interest may be commenced by or on behalf of any employee or former employee with respect to whom a disclosure is made by a legislative body in an effort to comply with this section.

§ 54957.2. Minute book record of closed sessions; inspection

(a) The legislative body of a local agency may, by ordinance or resolution, designate a clerk or other officer or employee of the local agency who shall then attend each closed session of the legislative body and keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book made pursuant to this section is not a public record subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be kept confidential. The minute book shall be available only to members of the legislative body or, if a violation of this chapter is alleged to have occurred at a closed session, to a court of general jurisdiction wherein the local agency lies. Such minute book may, but need not, consist of a recording of the closed session.

(b) An elected legislative body of a local agency may require that each legislative body all or a majority of whose members are appointed by or under the authority of the elected legislative body keep a minute book as prescribed under subdivision (a).

§ 54957.5. Agendas and other writings distributed for discussion or consideration at public meetings; public records; inspection; closed sessions

(a) Notwithstanding Section 6255 or any other provisions of law, agendas of public meetings and any other writings, when distributed to all, or a majority of all, of the members of a legislative body of a local

agency by any person in connection with a matter subject to discussion or consideration at a public meeting of the body, are disclosable public records under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be made available upon request without delay. However, this section shall not include any writing exempt from public disclosure under Section 6253.5, 6254, or 6254.7.

(b) Writings that are public records under subdivision (a) and that are distributed during a public meeting shall be made available for public inspection at the meeting if prepared by the local agency or a member of its legislative body, or after the meeting if prepared by some other person.

(c) Nothing in this chapter shall be construed to prevent the legislative body of a local agency from charging a fee or deposit for a copy of a public record pursuant to Section 6257.

(d) This section shall not be construed to limit or delay the public's right to inspect or obtain a copy of any record required to be disclosed under the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1). Nothing in this chapter shall be construed to require a legislative body of a local agency to place any paid advertisement or any other paid notice in any publication.

§ 54957.6. Closed sessions; salaries, salary schedules or fringe benefits

(a) Notwithstanding any other provision of law, a legislative body of a local agency may hold closed sessions with the local agency's designated representatives regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits of its represented and unrepresented employees, and, for represented employees, any other matter within the statutorily provided scope of representation.

However, prior to the closed session, the legislative body of the local agency shall hold an open and public session in which it identifies its designated representatives.

Closed sessions of a legislative body of a local agency, as permitted in this section, shall be for the purpose of reviewing its position and instructing the local agency's designated representatives.

Closed sessions, as permitted in this section, may take place prior to and during consultations and discussions with representatives of employee organizations and unrepresented employees.

Closed sessions with the local agency's designated representative regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits may include discussion of an agency's available funds and funding priorities, but only insofar as these discussions relate to providing instructions to the local agency's designated representative.

Closed sessions held pursuant to this section shall not include final action on the proposed compensation of one or more unrepresented employees.

For the purposes enumerated in this section, a legislative body of a local agency may also meet with a state conciliator who has intervened in the proceedings.

(b) For the purposes of this section, the term "employee" shall include an officer or an independent contractor who functions as an officer or an employee, but shall not include any elected official, member of a legislative body, or other independent contractors.

§ 54957.7. Disclosure of items to be discussed in closed sessions

(a) Prior to holding any closed session, the legislative body of the local agency shall disclose, in an open meeting, the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. In the closed session, the legislative body may consider only those matters covered in its statement. Nothing in this section shall require or authorize a disclosure of information prohibited by state or federal law.

(b) After any closed session, the legislative body shall reconvene into open session prior to adjournment and shall make any disclosures required by Section 54957.1 of action taken in the closed session.

(c) The announcements required to be made in open session pursuant to this section may be made at the location announced in the agenda for the closed session, as long as the public is allowed to be present at that location for the purpose of hearing the announcements.

§ 54957.8. Closed sessions; legislative body of a multijurisdictional drug law enforcement agency

Nothing contained in this chapter shall be construed to prevent the legislative body of a multijurisdictional drug law enforcement agency, or an advisory body of a multijurisdictional drug law enforcement agency, from holding closed sessions to discuss the case records of any ongoing criminal investigation of the multijurisdictional drug law enforcement agency or of any party to the joint powers agreement, to hear testimony from persons involved in the investigation, and to discuss courses of action in particular cases.

"Multijurisdictional drug law enforcement agency," for purposes of this section, means a joint powers entity formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1, which provides drug law enforcement services for the parties to the joint powers agreement.

The Legislature finds and declares that this section is within the public interest, in that its provisions are necessary to prevent the impairment of ongoing law enforcement investigations, to protect witnesses and informants, and to permit the discussion of effective courses of action in particular cases.

§ 54957.9. Disorderly conduct of general public during meeting; clearing of room

In the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the members of the legislative body conducting the meeting may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in this section shall prohibit the legislative body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

§ 54958. Application of chapter

The provisions of this chapter shall apply to the legislative body of every local agency notwithstanding the conflicting provisions of any other state law

§ 54959. Penalty for unlawful meeting

Each member of a legislative body who attends a meeting of that legislative body where action is taken in violation of any provision of this chapter, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this chapter, is guilty of a misdemeanor.

§ 54960. Actions to stop or prevent violations of meeting provisions; applicability of meeting provisions; validity of rules or actions on recording closed sessions

(a) The district attorney or any interested person may commence an action by mandamus, injunction or declaratory relief for the purpose of stopping or preventing violations or threatened violations of this chapter by members of the legislative body of a local agency or to determine the applicability of this chapter to actions or threatened future action of the legislative body, or to determine whether any rule or action by the legislative body to penalize or otherwise discourage the expression of one or more of its members is valid or invalid under the laws of this state or of the United States, or to compel the legislative body to tape record its closed sessions as hereinafter provided.

(b) The court in its discretion may, upon a judgment of a violation of Section 54956.7, 54956.8, 54956.9,

54956.95, 54957, or 54957.6, order the legislative body to tape record its closed sessions and preserve the tape recordings for the period and under the terms of security and confidentiality the court deems appropriate.

(c)(1) Each recording so kept shall be immediately labeled with the date of the closed session recorded and the title of the clerk or other officer who shall be custodian of the recording.

(2) The tapes shall be subject to the following discovery procedures:

(A) In any case in which discovery or disclosure of the tape is sought by either the district attorney or the plaintiff in a civil action pursuant to Section 54959, 54960, or 54960.1 alleging that a violation of this chapter has occurred in a closed session which has been recorded pursuant to this section, the party seeking discovery or disclosure shall file a written notice of motion with the appropriate court with notice to the governmental agency which has custody and control of the tape recording. The notice shall be given pursuant to subdivision (b) of Section 1005 of the Code of Civil Procedure.

(B) The notice shall include, in addition to the items required by Section 1010 of the Code of Civil Procedure, all of the following:

(i) Identification of the proceeding in which discovery or disclosure is sought, the party seeking discovery or disclosure, the date and time of the meeting recorded, and the governmental agency which has custody and control of the recording.

(ii) An affidavit which contains specific facts indicating that a violation of the act occurred in the closed session.

(3) If the court, following a review of the motion, finds that there is good cause to believe that a violation has occurred, the court may review, in camera, the recording of that portion of the closed session alleged to have violated the act.

(4) If, following the in camera review, the court concludes that disclosure of a portion of the recording would be likely to materially assist in the resolution of the litigation alleging violation of this chapter, the court shall, in its discretion, make a certified transcript of the portion of the recording a public exhibit in the proceeding.

(5) Nothing in this section shall permit discovery of communications which are protected by the attorney-client privilege.

§ 54960.1. Unlawful action by legislative body; action for mandamus or injunction; prerequisites

(a) The district attorney or any interested person may commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that an action taken by a legislative body of a local agency in violation of Section 54953, 54954.2, 54954.5, 54954.6, or 54956 is null and void under this section. Nothing in this chapter shall be construed to prevent a legislative body from curing or correcting an action challenged pursuant to this section.

(b) Prior to any action being commenced pursuant to subdivision (a), the district attorney or interested person shall make a demand of the legislative body to cure or correct the action alleged to have been taken in violation of Section 54953, 54954.2, 54954.5, 54954.6, or 54956. The demand shall be in writing and clearly describe the challenged action of the legislative body and nature of the alleged violation.

(c)(1) The written demand shall be made within 90 days from the date the action was taken unless the action was taken in an open session but in violation of Section 54954.2, in which case the written demand shall be made within 30 days from the date the action was taken.

(2) Within 30 days of receipt of the demand, the legislative body shall cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct or inform the demanding party in writing of its decision not to cure or correct the challenged action.

(3) If the legislative body takes no action within the 30-day period, the inaction shall be deemed a decision not to cure or correct the challenged action, and the 15-day period to commence the action

described in subdivision (a) shall commence to run the day after the 30-day period to cure or correct expires.

(4) Within 15 days of receipt of the written notice of the legislative body's decision to cure or correct, or not to cure or correct, or within 15 days of the expiration of the 30-day period to cure or correct, whichever is earlier, the demanding party shall be required to commence the action pursuant to subdivision (a) or thereafter be barred from commencing the action.

(d) An action taken that is alleged to have been taken in violation of Section 54953, 54954.2, 54954.5, 54954.6, or 54956 shall not be determined to be null and void if any of the following conditions exist:

(1) The action taken was in substantial compliance with Sections 54953, 54954.2, 54954.5, 54954.6, and 54956.

(2) The action taken was in connection with the sale or issuance of notes, bonds, or other evidences of indebtedness or any contract, instrument, or agreement thereto.

(3) The action taken gave rise to a contractual obligation, including a contract let by competitive bid other than compensation for services in the form of salary or fees for professional services, upon which a party has, in good faith and without notice of a challenge to the validity of the action, detrimentally relied.

(4) The action taken was in connection with the collection of any tax.

(5) Any person, city, city and county, county, district, or any agency or subdivision of the state alleging noncompliance with subdivision (a) of Section 54954.2, Section 54956, or Section 54956.5, because of any defect, error, irregularity, or omission in the notice given pursuant to those provisions, had actual notice of the item of business at least 72 hours prior to the meeting at which the action was taken, if the meeting was noticed pursuant to Section 54954.2, or 24 hours prior to the meeting at which the action was taken if the meeting was noticed pursuant to Section 54956, or prior to the meeting at which the action was taken if the meeting is held pursuant to Section 54956.5.

(e) During any action seeking a judicial determination pursuant to subdivision (a) if the court determines, pursuant to a showing by the legislative body that an action alleged to have been taken in violation of Section 54953, 54954.2, 54954.5, 54954.6, or 54956 has been cured or corrected by a subsequent action of the legislative body, the action filed pursuant to subdivision (a) shall be dismissed with prejudice.

(f) The fact that a legislative body takes a subsequent action to cure or correct an action taken pursuant to this section shall not be construed or admissible as evidence of a violation of this chapter.

§ 54960.5. Costs and attorney fees

A court may award court costs and reasonable attorney fees to the plaintiff in an action brought pursuant to Section 54960 or 54960.1 where it is found that a legislative body of the local agency has violated this chapter. The costs and fees shall be paid by the local agency and shall not become a personal liability of any public officer or employee of the local agency.

A court may award court costs and reasonable attorney fees to a defendant in any action brought pursuant to Section 54960 or 54960.1 where the defendant has prevailed in a final determination of such action and the court finds that the action was clearly frivolous and totally lacking in merit.

§ 54961. Meetings prohibited in facilities; grounds; identity of victims of tortious sexual conduct or child abuse

(a) No legislative body of a local agency shall conduct any meeting in any facility that prohibits the admittance of any person, or persons, on the basis of race, religious creed, color, national origin, ancestry, or sex, or which is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase. This section shall apply to every local agency as defined in Section 54951.

(b) No notice, agenda, announcement, or report required under this chapter need identify any victim or alleged victim of tortious sexual conduct or child abuse unless the identity of the person has been publicly

disclosed.

§ 54962. Closed session by legislative body prohibited

Except as expressly authorized by this chapter, or by Sections 1461, 1462, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code as they apply to hospitals, or by any provision of the Education Code pertaining to school districts and community college districts, no closed session may be held by any legislative body of any local agency.

SEC. 4.100. GENERAL.

In addition to the office of the Mayor, the executive branch of the City and County shall be composed of departments, appointive boards, commissions and other units of government. To the extent law permits, each appointive board, commission, or other unit of government of the City and County established by state or federal law shall be subject to the provisions of this Article and this Charter.

SEC. 4.101. BOARDS AND COMMISSIONS—COMPOSITION.

Unless otherwise provided in this Charter, the composition of each appointive board, commission or advisory body of any kind established by this Charter or legislative act of the United States of America, the State of California or the Board of Supervisors shall:

1. Be broadly representative of the communities of interest, neighborhoods, and the diversity in ethnicity, race, age, and sexual orientation of the City and County and have representation of both sexes; and

2. Consist of electors of the City and County at all times during the term of their respective offices, unless otherwise specifically provided in this Charter; or in the case of boards, commissions or advisory bodies established by legislative act the position is (a) designated by ordinance for a person under legal voting age, or (b) unless specifically exempt from the provisions, or waived by the appointing officer or entity upon a finding that an elector with specific experience, skills or qualifications willing to serve could not be located within the City and County.

Vacancies on appointive boards, commissions or other units of government shall be filled for the balance of the unexpired term in the manner prescribed by this Charter or ordinance for initial appointments.

Terms of office shall continue as they existed on the effective date of this Charter.

SEC. 4.102. BOARDS AND COMMISSIONS—POWERS AND DUTIES.

Unless otherwise provided in this Charter, each appointive board, commission or other unit of government of the executive branch of the City and County shall:

1. Formulate, evaluate and approve goals, objectives, plans and programs and set policies consistent with the overall objectives of the City and County, as established by the Mayor and the Board of Supervisors through the adoption of City legislation;

2. Develop and keep current an Annual Statement of Purpose outlining its areas of jurisdiction, authorities, purpose and goals, subject to review and approval by the Mayor and the Board of Supervisors;

3. After public hearing, approve applicable departmental budgets or any budget modifications or fund transfers requiring the approval of the Board of Supervisors, subject to the Mayor's final authority to initiate, prepare and submit the annual proposed budget on behalf of the executive branch and the Board of Supervisors' authority under Section 9.103;

4. Recommend to the Mayor for submission to the Board of Supervisors rates, fees and similar charges with respect to appropriate items coming within their respective jurisdictions;

5. Unless otherwise specifically provided, submit to the Mayor at least three qualified applicants, and if rejected, to make additional nominations in the same manner, for the position of department head, subject to appointment by the Mayor;

6. Remove a department head; the Mayor may recommend removal of a department head to the commission, and it shall be the commission's duty to act on the Mayor's recommendation by removing or retaining the department head within 30 days; failure to act on the Mayor's recommendation shall constitute official misconduct;

7. Conduct investigations into any aspect of governmental operations within its jurisdiction through the power of inquiry, and make recommendations to the Mayor or the Board of Supervisors;

8. Exercise such other powers and duties as shall be prescribed by the Board of

Supervisors; and

9. Appoint an executive secretary to manage the affairs and operations of the board or commission.

In furtherance of the discharge of its responsibilities, an appointive board, commission or other unit of government may:

10. Hold hearings and take testimony; and

11. Retain temporary counsel for specific purposes, subject to the consent of the Mayor and the City Attorney.

Each board or commission, relative to the affairs of its own department, shall deal with administrative matters solely through the department head or his or her designees, and any dictation, suggestion or interference herein prohibited on the part of any member of a board or commission shall constitute official misconduct; provided, however, that nothing herein contained shall restrict the board or commission's powers of hearing and inquiry as provided in this Charter.

SEC. 4.103. BOARDS AND COMMISSIONS—ANNUAL REPORT.

As of the operative date of this Charter and until this requirement is changed by the Board of Supervisors, each board and commission of the City and County shall be required by ordinance to prepare an annual report describing its activities, and shall file such report with the Mayor and the Clerk of the Board of Supervisors. The Annual Report can be included in the Annual Statement of Purpose as provided for in Section 4.102(2).

SEC. 4.104. BOARDS AND COMMISSIONS—RULES AND REGULATIONS.

Unless otherwise provided in this Charter, each appointive board, commission or other unit of government of the executive branch of the City and County shall:

1. Adopt rules and regulations consistent with this Charter and ordinances of the City and County. No rule or regulation shall be adopted, amended or repealed, without a public hearing. At least ten days' public notice shall be given for such public hearing. All such rules and regulations shall be filed with the Clerk of the Board of Supervisors.

2. Hold meetings open to the public and encourage the participation of interested persons. Except for the actions taken at closed sessions, any action taken at other than a public meeting shall be void. Closed sessions may be held in accordance with applicable state statutes and ordinances of the Board of Supervisors.

3. Keep a record of the proceedings of each regular or special meeting. Such record shall indicate how each member voted on each question. These records, except as may be limited by state law or ordinance, shall be available for public inspection.

The presence of a majority of the members of an appointive board, commission or other unit of government shall constitute a quorum for the transaction of business by such body. Unless otherwise required by this Charter, the affirmative vote of a majority of the members shall be required for the approval of any matter, except that the rules and regulations of the body may provide that, with respect to matters of procedure the body may act by the affirmative vote of a majority of the members present, so long as the members present constitute a quorum. All appointive boards, commissions or other units of government shall act by a majority, two-thirds, three-fourths or other vote of all members. Each member present at a regular or special meeting shall vote "yes" or "no" when a question is put, unless excused from voting by a motion adopted by a majority of the members present.

SECTION 16.112. CITIZEN PARTICIPATION; PUBLIC NOTICES, HEARINGS AND ACCESS TO PUBLIC DOCUMENTS.

The publication of and full public access to public documents, except for those subject to confidentiality, shall be as required by law.

Notice shall be published in a timely manner before any public hearing, and shall include a general description of said hearing.

Notice shall be given, and public hearings held before:

(a) Any facility used by the public, including but not limited to libraries and health facilities, shall be closed, eliminated, or its level of services reduced, or prior to the leasing, selling or transfer of management of said facility;

(b) Any significant change in the operating schedule or route of a street railway, bus line, trolley bus line or cable car line is adopted;

(c) Any fee, schedule of rates, charges or fares which affects the public is instituted or changed; should any such action be approved, the result shall also be noticed; or

(d) Any amendment to the general plan, change in zoning or change in land use is adopted.

In addition, notice shall be given for the following:

(e) Any sale, lease, rental, encumbrance or exchange of real property held by the City and County;

(f) Special assessment districts and protests of special assessment districts;

(g) Requests for bids or proposals for the purchase or lease of materials, supplies, equipment, services, construction, work or improvements involving expenditure of $50,000 or more; notice shall also be given after any such award is made; the Board may by ordinance reduce the dollar threshold for such notice; and

(h) Polling places and precinct officers for any election.

THE SAN FRANCISCO NON-PROFIT PUBLIC ACCESS ORDINANCE

(San Francisco Administrative Code Chapter 12L)

SEC. 12L.1. INTENT AND INTERPRETATION; COSTS OF COMPLIANCE. (a) The intent of this Chapter is to establish a policy wherein the City ensures that non-profit organizations with which the City chooses to do business operate with the greatest possible openness and maintain the closest possible ties to communities they intend to serve. Nothing in this Chapter shall be construed to limit the level of openness and democracy in non-profit organizations and any contracting non-profit organization may establish policies that guarantee additional openness to stakeholders.

(b) This Chapter is intended to be cost-neutral in its effects upon non-profit organizations, and the requirements imposed by this Chapter shall be subject to that intent. This Chapter is not intended to impose obligations equal to those of governmental agencies upon non-profit organizations doing business with the City.

SEC. 12L.2. CONTRACT LANGUAGE ESTABLISHING PUBLIC ACCESS TO NON-PROFIT ORGANIZATIONS. (a) Each contracting agency of the City or any department thereof, acting for or on behalf of the City, shall include in all contracts between it and any non-profit organization which are subject to this Chapter, provisions imposing the requirements set forth in sections 12L.4 through 12L.7, inclusive.

(b) Each contracting agency of the City or any department thereof shall include in every invitation to submit proposals or requests for City-administered funding provisions requiring that any non-profit organization submitting such a proposal or request provide information regarding its efforts to comply with this Chapter, and further include a summary stating, to the best of the non-profit organization's knowledge, all complaints concerning the non-profit organization filed with any contracting agency of the City or any department thereof under this Chapter in the preceding two years which that City agency or department has deemed to be substantiated and the disposition of each such complaint, or a statement that no such complaints have been filed in the preceding two years.

(c) In furtherance of the purposes of this Chapter, the Controller, in consultation with the City Attorney, shall create the provisions described in subsections (a) and (b), above, consistent with the provisions of this Chapter.

SEC. 12L.3. DEFINITIONS. As used in this Chapter the following words and phrases shall have the meanings indicated herein:

(a) "Board of Directors" shall mean the Board of Directors, the Board of Trustees, or other principal decision making body of any non-profit organization.

(b) "City" shall mean the City and County of San Francisco.

(c) "Contract" shall mean an agreement (however titled, including without limitation a memorandum of understanding) to grant or otherwise provide funds to a non-profit organization including funds from another governmental entity administered through the City or any City commission, City board, City agency or City department, for such organization's operation, new or existing programs, events, performances, capital improvements, or for goods or services provided by or through such organization, to all or any portion of the public. "Contract" shall not include (1) an agreement to provide goods to the City pursuant to bids or requests for proposals, where the City is the end user of the goods, or (2) an agreement to provide services or benefits to City employees and/or to their family members, dependents, or their other designated beneficiaries.

(d) "Cost-Neutral" shall mean that a non-profit organization's reasonable costs of complying with this Chapter (not including direct costs of duplication, or mailing costs, of financial documents which are paid by a member of the public pursuant to Section 12L.5.(a) herein) shall not exceed five hundred dollars per year.

(e) "Non-profit Organization" shall mean any corporation formed pursuant to California Corporations Code sections 5000 et seq. for any public or charitable purpose, and/or any

organization described within 26 USC section 501(c), which receives a cumulative total per year of at least $250,000 in City-provided or City-administered funds.

(f) "Designated Public Meeting" shall mean any regular or special meeting of the Board of Directors of a non-profit organization which the Board of Directors designates as open to all members of the public pursuant to section 12L.4(a)(1) of this Chapter.

SEC. 12L.4. PUBLIC ACCESS TO MEETINGS. (a) Meetings open to the public. Except as provided in subsections (a)(2) or (a)(3), the following requirements shall be included in all City contracts with non-profit organizations:

(1) Each non-profit organization shall designate and hold at least two designated public meetings per year. Issues addressed by the Board of Directors at designated public meetings shall be of approximately the same general nature and significance to the non-profit organization as issues typically addressed by the Board of Directors at its other regular or special meetings. These issues may include adoption of the non-profit organization's budget, nomination of members of the organization's Board of Directors, and evaluation of the organization's contract(s) with the City. At at least one designated public meeting the public shall have an opportunity to address the Board of Directors on membership on the Board of Directors and to propose candidates for membership on the Board of Directors as provided in section 12L.6(b).

(2) Section 12L.4(a)(1) shall apply to the full extent allowed by state and federal law.

(3) Section 12L.4(a)(1) shall not apply to non-profit organizations engaged primarily in the provision of abortion counseling or services, domestic violence sheltering services, or suicide prevention counseling services.

(b) Closed meetings. The Board of Directors may choose to close a portion of a designated public meeting:

(1) when discussing any matters pertaining to the particular recipients of the non-profit organization's goods or services or donors of in-kind or monetary contributions to the non-profit organization where the discussion would necessarily reveal the identity of clients or donors;

(2) when discussing any matters pertaining to litigation; real estate negotiations; the appointment, employment, evaluation of performance, or dismissal of an employee of the non-profit organization; or labor negotiations in which the non-profit organization is involved; when hearing complaints or charges against an employee of the non-profit organization; or when discussing attorney-client privileged information, or information which constitutes a trade secret;

(3) under any circumstances where admitting members of the public is prohibited by state or federal law;

(4) under any other circumstances where the Board of Supervisors has approved the closing of a portion of a designated public meeting by the non-profit organization.

(c) Public comment.

(1) At every designated public meeting the public shall have an opportunity to directly address the Board of Directors on any item of interest to the public relating to the operations of or services provided by the non-profit organization.

(2) At any designated public meeting, the Board of Directors may adopt reasonable regulations to insure that the intent of this section is carried out, provided that the Board of Directors allows for at least 30 minutes of public comment at each designated public meeting.

(d) Notice.

(1) Each non-profit organization shall provide the public with notice of each designated public meeting at least 30 days in advance of the meeting.

(2) The Board of Directors shall cause a written notice of the date, time and location of each designated public meeting to be submitted to the clerk of the Board of Supervisors who shall post the written notice where notices of meetings of the Board of Supervisors are posted, and to the San Francisco Main Library Government Information Center which shall post the written notice where notices of meetings of City boards and commissions are posted. In addition, upon inquiry by a member of the public, the non-profit organization shall disclose the date, time and location of the designated public meeting.

SEC. 12L.5. PUBLIC ACCESS TO RECORDS. (a) Disclosure of Financial Information. Subject to Section 12L.5.(c), each non-profit organization shall maintain and make available for public inspection and copying a packet of financial information concerning the non-profit organization. The packet shall include, at a minimum, (1) the non-profit organization's most recent budget as already provided to the City in connection with the non-profit organization's application for, or in connection with the review and/or renewal of, the non-profit organization's contract, (2) its most recently filed state and federal tax returns except to the extent those returns are privileged, and (3) any financial audits of such organization performed by or for the City and any performance evaluations of such organization performed by or for the City pursuant to a contract between the City and the non-profit organization, to the extent that such financial audits and performance evaluations (i) are in the non-profit organization's possession, (ii) may be publicly disclosed under the terms of the contract between the City and the non-profit organization, and (iii) relate to the non-profit corporation's performance under its contract with the City within the last two years. A member of the public may request additional financial information other than that described above, pursuant to Section 12L.5.(b) herein; however, the provision of such additional financial information by a non-profit organization shall be voluntary, not compulsory. Members of the public, upon giving ten days' notice to the non-profit organization, shall be entitled to inspect the packet of financial information during the non-profit organization's regular business hours or to receive a copy of the packet of information for which the non-profit organization may recover from the member of the public the organization's direct costs of duplication. Notwithstanding the foregoing, a non-profit organization described within Sections 12L.4.(a)(3) herein may comply with Section 12L.5.(a) herein by sending a copy of its financial information packet, by first class mail, with the costs of such mailing prepaid by the member of the public, to a member of the public who has requested such information.

(b) Dispute Resolution. A member of the public who requests additional financial information other than that described in Section 12L.5.(a), above, or who has a complaint concerning a non-profit organization's compliance or non-compliance with this Chapter, may submit that request or complaint to the City agency or department which is a party to and/or which administers the non-profit organization's contract. That City agency or department shall consider the request or complaint and shall recommend a resolution thereof in accordance with procedures established by that City agency or department. Following such consideration and recommendation, the member of the public or the non-profit organization may seek an advisory opinion concerning the request or complaint from the Sunshine Ordinance Task Force, which that Task Force shall be authorized to provide; provided, however, that failure to seek such an advisory opinion from the Sunshine Ordinance Task Force shall not prejudice the right of the member of the public and/or the non-profit organization to obtain a review of the City agency or department's recommendation by the Board of Supervisors as provided herein. The member of the public or the non-profit organization may request that the Board of Supervisors review the recommendation of the City agency or department, which review shall be conducted in accordance with procedures established by the Board of Supervisors, provided that such request is made in writing to the Clerk of the Board of Supervisors within ten days of the issuance of the City agency or department's recommendation or the Sunshine Ordinance Task Force's advisory opinion, whichever is later. Subject to Section 12L.7. herein, the recommendation of the City agency or department, or the determination of the Board of Supervisors, with respect to any request or complaint by a member of the public shall be non-binding upon the non-profit organization.

(c) Donor Confidentiality. No non-profit organization shall be required to make available to the public any document which would reveal the identity of any of that non-profit organization's donors or the amount or nature of any individual donations to that non-profit organization.

SEC. 12L.6. Community Representation. (a) It shall be the policy of the City that each non-profit organization shall make good-faith efforts designed to promote the membership, on its Board of Directors, of at least one person who is a recipient of the goods or services of that non-profit organization or of like goods or services provided by another non-profit organization.

(b) Each non-profit organization shall seek candidates for appointment to its Board of Directors who consume or receive its goods or services, or like goods or services provided by another non-profit organization, and who are members of the class of persons intended to be benefited by the organization's activities or services. The non-profit organization shall seek these candidates by:

(1) Giving notice of vacancies on its Board of Directors by means reasonably calculated to come to the attention of the recipients of the goods or services or type of goods or services provided by the non-profit organization, which may include, but shall not be limited to, posting written notice of such vacancies in a location accessible to recipients of such goods or services.

(2) Providing each member of the public the opportunity to propose him or herself or other member of the public for nomination for appointment to the Board of Directors at at least one of the designated public meeting per year or in writing; and

(3) Providing members of the public the opportunity to comment on Board of Directors membership at at least one of the designated public meetings per year.

SEC. 12L.7. COMPLIANCE. In the event that a non-profit organization materially fails to comply with any contract provision required by this Chapter, the City agency or department which is a party to such contract shall consider such failure a material breach of the contract. The City agency or department may, but is not required to, further consider such material breach as grounds for terminating the contract or not renewing the contract, partially or in its entirety.

SEC. 12L.8. SEVERABILITY. This Chapter shall be construed so as not to conflict with applicable federal or state laws, rules or regulations. Nothing in this Chapter shall authorize any City agency or department to impose any duties or obligations in conflict with limitations on municipal authority established by state or federal law at the time such agency or department action is taken.

In the event that a court or agency of competent jurisdiction holds that state or federal law invalidates any clause, sentence, paragraph or section of this Chapter or the application thereof to any person, or circumstances, it is the intent of the Board of Supervisors that the court or agency sever such clause, sentence, paragraph or section so that the remainder of this Chapter shall remain in effect.

SEC. 12L.9. CITY UNDERTAKING LIMITED TO PROMOTION OF GENERAL WELFARE. In undertaking the adoption and enforcement of this Chapter, the City and County is undertaking only to promote the general welfare. The City and County is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

This Chapter does not create a legally enforceable right by any member of the public against the City or a non-profit organization.

SEC. 12L.10. EFFECTIVE DATE. This Chapter shall not apply to any contract executed or amended before 90 days following the effective date of this Chapter. This Chapter shall apply to all contracts executed or amended 90 or more days following the effective date of this Chapter.

THE SAN FRANCISCO SUNSHINE ORDINANCE

(San Francisco Administrative Code Chapter 67)

ARTICLE I
IN GENERAL

Sec. 67.1. Findings and Purpose.
Sec. 67.2. Citation.

ARTICLE II
PUBLIC ACCESS TO MEETINGS

Sec. 67.3. Definitions.
Sec. 67.4. Passive Meetings.
Sec. 67.5. Meetings To Be Open and Public; Application of Brown Act.
Sec. 67.6. Conduct of Business; Time and Place For Meetings.
Sec. 67.7. Agenda Requirements; Regular Meetings.
Sec. 67.7-1. Public Notice Requirements.
Sec. 67.8. Agenda Disclosures: Closed Sessions.
Sec. 67.9. Agendas and Related Materials: Public Records.
Sec. 67.10. Closed Sessions: Public Facilities and Employees.
Sec. 67.11. Closed Sessions: Pending Litigation.
Sec. 67.12. Closed Sessions: Employee Salaries and Benefits.
Sec. 67.13. Statement of Reasons For Closed Sessions.
Sec. 67.14. Disclosure of Closed Session Discussions and Actions.
Sec. 67.15. Barriers to Attendance Prohibited.
Sec. 67.16. Tape Recording, Filming and Still Photography.
Sec. 67.17. Public Testimony at Regular and Certain Special Meetings.
Sec. 67.18. Minutes.
Sec. 67.19. Public Comment By Members of Policy Bodies.

ARTICLE III
PUBLIC INFORMATION

Sec. 67.20. Definitions.
Sec. 67.21. Release of Documentary Public Information.
Sec. 67.22. Release of Oral Public Information.
Sec. 67.23. Public Review File—Policy Body Communications.
Sec. 67.24. Nonexempt Public Information.
Sec. 67.25. Immediacy of Response.
Sec. 67.26. Minimum Withholding.
Sec. 67.27. Justification of Withholding.
Sec. 67.28. Fees for Duplication.
Sec. 67.29. Index to Records.

ARTICLE IV

POLICY IMPLEMENTATION

Sec. 67.30. The Sunshine Ordinance Task Force.
Sec. 67.31. Responsibility for Administration.
Sec. 67.32. Severability.

THE SAN FRANCISCO SUNSHINE ORDINANCE
(San Francisco Administrative Code Chapter 67)

ARTICLE I

IN GENERAL

SEC. 67.1. FINDINGS AND PURPOSE. The Board of Supervisors finds and declares:

(a) Government's duty is to serve the public, reaching its decisions in full view of the public.

(b) Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance will assure that their deliberations are conducted before the people and that City operations are open to the people's review.

(c) Although that is the intent also of California's Ralph M. Brown Act and Public Records Act, the people of California have learned from costly experience that every generation of governmental leaders includes officials who feel more comfortable conducting public business away from the scrutiny of those who elect and employ them. New civic issues and new governmental procedures also can erode the public's fundamental rights. Violations of open government principles occur at all levels, from local advisory boards to the highest reaches of the State hierarchy.

(d) It is time for San Francisco to reaffirm the plain purpose of the State's open government laws and to apply their underlying principles to local circumstances. No law is self-enforcing. Continued vigilance is essential. As government evolves, so must the laws designed to assure that the process remains visible.

(e) The people of San Francisco want an open society. They do not give their public servants the right to decide what they should know. The public's right to know is as fundamental as its right to vote. To act on truth, the people must be free to learn the truth.

(f) The sun must shine on all the workings of government so the people may put their institutions right when they go wrong. San Francisco enacts this ordinance to assure that, in general intent as well as in administrative procedure, the people of this City remain in control of the government they created.

SEC. 67.2. CITATION. This Chapter may be cited as the San Francisco Sunshine Ordinance.

ARTICLE II

PUBLIC ACCESS TO MEETINGS

SEC. 67.3. DEFINITIONS. Whenever in this Article the following words or phrases are used, they shall mean:

(a) "City" shall mean the City and County of San Francisco.

(b) "Meeting" shall mean any of the following:

(1) A congregation of a majority of the members of a policy body at the same time and place;

(2) A series of gatherings, each of which involves less than a majority of a policy body, to hear, discuss or deliberate upon any item that is within the subject matter jurisdiction of the City, if the cumulative result is that a majority of members has become involved in such gatherings; or

(3) Any other use of personal intermediaries or communications media that could permit a majority of the members of a policy body to become aware of an item of business and of the views or positions of other members with respect thereto, and to negotiate consensus thereupon.

(4) "Meeting" shall not include any of the following:

(A) Individual contacts or conversations between a member of a policy body and a constituent which do not convey to the member the views or positions of other members upon the subject matter of the contact or conversation and in which the member does not solicit or

encourage the restatement of the views of the other members,

(B) The attendance of a majority of the members of a policy body at a regional, statewide or national conference, or at a meeting organized to address a topic of local community concern and open to the public, provided that a majority of the members refrains from using the occasion to collectively discuss the topic of the gathering or any other business within the subject matter jurisdiction of the City, or

(C) The attendance of a majority of the members of a policy body at a purely social, recreational or ceremonial occasion other than one sponsored or organized by or for the policy body itself, provided that a majority of the members refrains from using the occasion to discuss any business within the subject matter jurisdiction of this body. A meal gathering of a policy body before, during or after a business meeting of the body is part of that meeting and shall be conducted only under circumstances that permit public access to hear and observe the discussion of members. Such meetings shall not be conducted in restaurants or other accommodations where public access is possible only in consideration of making a purchase or some other payment of value.

(D) The attendance of a majority of the members of a policy body at an open and noticed meeting of a standing committee of that body, provided that the members of the policy body who are not members of the standing committee attend only as observers.

(E) The proceedings of any committee having responsibility for the evaluation and improvement of the quality of medical care, mental services or any other type of health services provided by the City or City- funded providers, including but not limited to committees described in Evidence Code Sections 1156 et seq.,

(F) Proceedings of the Department of Social Services Child Welfare Placement and Review Committee or similar committees which exist to consider confidential information and make decisions regarding Department of Social Services clients.

(c) "Policy body" shall mean:

(1) The Board of Supervisors;

(2) Any other board or commission established by the Charter or by ordinance or resolution of the Board of Supervisors; or

(3) Any advisory commission, committee or body of the City, created by the initiative of a policy body;

(4) Any standing committee of a policy body irrespective of its composition.

A policy body shall not include a committee which consists solely of employees of the City and County of San Francisco.

SEC. 67.4. PASSIVE MEETINGS. (a) Gatherings as defined in Subdivision (5), which shall be known as "passive meetings," shall be accessible to individuals upon inquiry and to the extent possible consistent with the facilities in which they occur.

(1) Such gatherings need not be formally noticed, although the time, place and nature of the gathering shall be disclosed upon inquiry by a member of the public, and any agenda actually prepared for the gathering shall be accessible to such inquirers as a public record;

(2) Such gatherings need not be conducted in any particular space for the accommodation of spectators, although spectators shall be permitted to observe on a space-available basis consistent with legal and practical restrictions on occupancy;

(3) Such gatherings of a business nature need not provide opportunities for comment by spectators, although the person presiding may, in his or her discretion, entertain such questions or comments from spectators as may be relevant to the business of the gathering;

(4) Such gatherings of a social or ceremonial nature need not provide refreshments to spectators;

(5) Gatherings subject to this subsection are the following: Advisory committees created in writing by the initiative of a member of a policy body, the Mayor, or a department head and social, recreational or ceremonial occasions sponsored or organized by or for a policy body

to which a majority of the body has been invited. This subsection shall not apply to a committee which consists solely of employees of the City and County of San Francisco;

(6) Gatherings defined in Subdivision (5) may hold closed sessions under any circumstances allowed by this Article or the Ralph M. Brown Act.

(b) To the extent not inconsistent with State or federal law, a policy body shall include in any contract with an entity that owns, operates or manages any property in which the City has or will have an ownership interest, including a mortgage, and on which the entity performs a government function related to the furtherance of health, safety or welfare, a requirement that any meeting of the governing board of the entity to address any matter relating to the property or its government related activities on the property, be conducted as provided in Subdivision (a) of this section.

SEC. 67.5. MEETINGS TO BE OPEN AND PUBLIC; APPLICATION OF BROWN ACT. All meetings of any policy body shall be open and public, and governed by the provisions of the Ralph M. Brown Act (Government Code Sections 54950 et seq.) and of this article. In case of inconsistent requirements under the Brown Act and this article, the requirement which would result in greater or more expedited public access shall apply.

SEC. 67.6. CONDUCT OF BUSINESS; TIME AND PLACE FOR MEETINGS. (a) Each policy body, except for advisory bodies, shall establish by resolution or motion the time and place for holding regular meetings.

(b) Unless otherwise required by State or federal law or necessary to inspect real property or personal property which cannot be conveniently brought within the territory of the City and County of San Francisco or to meet with residents residing on property owned by the City, or to meet with residents of another jurisdiction to discuss actions of the policy body that affect those residents, all meetings of its policy bodies shall be held within the City and County of San Francisco.

(c) If a regular meeting would otherwise fall on a holiday, it shall instead be held on the next business day.

(d) If, because of fire, flood, earthquake or other emergency, it would be unsafe to meet in the customary location, the meetings may be held for the duration of the emergency at some other place specified by the policy body. The change of meeting site shall be announced, by the most rapid means of communication available at the time, in a notice to the local media who have requested written notice of special meetings pursuant to Government Code Section 54956.

(e) Meetings of advisory bodies as specified in Section 66.3(c)(3) of this Article shall be preceded by notice delivered personally or by mail at least 24 hours before the time of such meeting to each person who has requested, in writing, notice of such meeting. If the advisory body elects to hold regular meetings, it shall provide by bylaws, or whatever other rule is utilized by that advisory body for the conduct of its business, for the time and place for holding such regular meetings. In such case, no notice of regular meetings, other than the posting of an agenda pursuant to Section 67.7 of this Article in the place used by the policy body or executive officer which it advises, is required.

(f) Special meetings of any policy body, including advisory bodies that choose to establish regular meeting times, may be called at any time by the presiding officer thereof or by a majority of the members thereof, by delivering personally or by mail written notice to each member of the board or commission and to each local newspaper, radio or television station requesting notice in writing.

Such notice must be delivered personally or by mail at least 24 hours before the time of such meeting as specified in the notice.

The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings by the board or commission.

Such written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the secretary of the board or commission a written waiver of notice. Such waiver may be given by telegram.

Such written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes.

Each special meeting shall be held at the regular meeting place of the policy body except that the policy body may designate an alternate meeting place provided that such alternate location is specified in the call and notice of the special meeting; further provided that the call and notice of the special meeting shall be given at least 15 days prior to said special meeting being held at an alternate location. This provision shall not apply where the alternative meeting location is located within the same building as the regular meeting place.

SEC. 67.7. AGENDA REQUIREMENTS; REGULAR MEETINGS. (a) At least 72 hours before a regular meeting, a policy body shall post an agenda containing a meaningful description of each item of business to be transacted or discussed at the meeting.

(b) A description is meaningful if it is sufficiently clear and specific to alert a person of average intelligence and education whose interests are affected by the item that he or she may have reason to attend the meeting or seek more information on the item. The description should be brief, concise and written in plain, easily understood English. It may refer to explanatory documents, such as correspondence or reports, posted adjacent to the agenda or, if such documents are of more than one page in length, available for public inspection and copying at a stated location during normal office hours.

(c) The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public.

(d) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a policy body may respond to statements made or questions posed by persons exercising their public testimony rights, to the extent of asking a question for clarification, providing a reference to staff or other resources for factual information, or requesting staff to report back to the body at a subsequent meeting concerning the matter raised by such testimony.

(e) Notwithstanding Subdivision (d), the policy body may take action on items of business not appearing on the posted agenda under any of the following conditions:

(1) Upon a determination by a majority vote of the body that an accident, natural disaster or work force disruption poses a threat to public health and safety;

(2) Upon a good faith, reasonable determination by a 2/3 vote of the body, or, if less than 2/3 of the members are present, a unanimous vote of those members present, that (A) the need to take immediate action on the item is so imperative as to threaten serious injury to the public interest if action were deferred to a subsequent special or regular meeting, or relates to a purely commendatory action, and (B) that the need for such action came to the attention of the body subsequent to the agenda being posted as specified in Subdivision (a);

(3) The item was posted pursuant to Subdivision (a) for a prior meeting of the body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

(f) Each board and commission enumerated in the Charter shall ensure that agendas for each regular and special meeting are made available to speech- and hearing-impaired persons through telecommunications devices for the deaf, telecommunications relay services or equivalent systems, and, upon request, to sight-impaired persons through Braille or enlarged type.

(g) Each policy body shall ensure that agendas for each regular and special meeting shall include the following notice:

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE
(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, board, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHINE ORDINANCE TASK FORCE.

SEC. 67.7-1. PUBLIC NOTICE REQUIREMENTS. (a) Any public notice that is mailed, posted or published by a City department, board, agency, or commission to residents residing within a specific area to inform those residents of a matter that may impact their property or that neighborhood area, shall be brief, concise and written in plain, easily understood English.

(b) The notice should inform the residents of the proposal or planned activity, the length of time planned for the activity, the effect of the proposal or activity, and a telephone contact for residents who have questions.

(c) If the notice informs the public of a public meeting or hearing, then the notice shall state that persons who are unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing, that these comments will be made a part of the official public record, and that the comments will be brought to the attention of the person or persons conducting the public meeting or hearing. The notice should also state the name and address of the person or persons to whom those written comments should be submitted.

SEC. 67.8. AGENDA DISCLOSURES: CLOSED SESSIONS. (a) In addition to the brief general description of items to be discussed or acted upon in open and public session, the agenda posted pursuant to Government Code Section 54954.2, any mailed notice given pursuant to Government Code Section 54954.1, and any call and notice delivered to the local media and posted pursuant to Government Code Section 54956 shall specify and disclose the nature of any closed sessions by providing all of the following information:

(1) With respect to a closed session held pursuant to Government Code Section 54956.7:

LICENSE/PERMIT DETERMINATION
_applicant(s)
The space shall be used to specify the number of persons whose applications are to be reviewed;

(2) With respect to every item of business to be discussed in closed session pursuant to Government Code Section 54956.8:

CONFERENCE WITH REAL PROPERTY NEGOTIATOR
Property:

Person(s) negotiating:

Under negotiation:
Price_ Terms of payment_ Both

The space under "Property" shall be used to list an address or other description or name which permits a reasonably ready identification of each parcel or structure subject to negotiation. The space under "Person(s) negotiating" shall be used to identify the person or persons with

whom negotiations concerning that property are in progress. The spaces under "Under negotiation" shall be checked off as applicable to indicate which issues are to be discussed;

(3) With respect to every item of business to be discussed in closed session pursuant to Government Code Section 54956.9, either:

CONFERENCE WITH LEGAL COUNSEL
Existing litigation:

_Unspecified to protect service of process
_Unspecified to protect settlement posture
or:

CONFERENCE WITH LEGAL COUNSEL
Anticipated litigation:
_As defendant _As plaintiff

The space under "Existing litigation" shall be used to specifically identify a case under discussion pursuant to Subdivision (a) of Government Code Section 54956.9, unless the identification would jeopardize the City's ability to effectuate service of process upon one or more unserved parties, in which instance the space in the next succeeding line shall be checked, or unless the identification would jeopardize the City's ability to conclude existing settlement negotiations to its advantage, in which instance the space in the next succeeding line shall be checked. If the closed session is called pursuant to Subdivision (b) or (c) of Section 54956.9, the appropriate space shall be checked under "Anticipated litigation" to indicate the City's anticipated position as defendant or plaintiff respectively. If more than one instance of anticipated litigation is to be reviewed, space may be saved by entering the number of separate instances in the "As defendant" or "As plaintiff" spaces or both as appropriate. The disclosure required by this section for anticipated litigation shall not apply to boards and commissions whose closed sessions are governed by Charter Section 3.500(f), except for the Board of Supervisors, unless and until a charter amendment is adopted repealing the provisions of that section relating to closed sessions;

(4) With respect to every item of business to be discussed in closed session pursuant to Government Code Section 54957, either:

THREAT TO PUBLIC SERVICES OR FACILITIES
Name, title and agency of law enforcement officer(s) to be conferred with:

or:

PUBLIC EMPLOYEE APPOINTMENT/HIRING
Title/description of position(s) to be filled:

PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Position and, in the case of a routine evaluation, name of employee(s) being evaluated:

or:

PUBLIC EMPLOYEE DISMISSAL
Number of employees affected:

or;

(5) With respect to every item of business to be discussed in closed session

pursuant to Government Code Section 54957.6, either:

CONFERENCE WITH NEGOTIATOR—COLLECTIVE BARGAINING
Name and title of City's negotiator:

Organization(s) representing:
_Police officers, firefighters and airport police
_Transit Workers
_Nurses
_Miscellaneous Employees

Anticipated issue(s) under negotiation:
_Wages
_Hours
_Benefits
_Working Conditions
_Other (specify if known) _All
Where renegotiating a memorandum of understanding or negotiating a successor memorandum of understanding, the name of the memorandum of understanding:

In case of multiple items of business under the same category, lines may be added and the location of information may be reformatted to eliminate unnecessary duplication and space, so long as the relationship of information concerning the same item is reasonably clear to the reader. As an alternative to the inclusion of lengthy lists of names or other information in the agenda, or as a means of adding items to an earlier completed agenda, the agenda may incorporate by reference separately prepared documents containing the required information, so long as copies of those documents are posted adjacent to the agenda within the time periods required by Government Code Sections 54954.2 and 54956 and provided with any mailed or delivered notices required by Sections 54954.1 or 54956.

SEC. 67.9. AGENDAS AND RELATED MATERIALS: PUBLIC RECORDS. (a) Agendas of meetings and any other documents on file with the clerk of the policy body, when intended for distribution to all, or a majority of all, of the members of a policy body in connection with a matter anticipated for discussion or consideration at a public meeting shall be made available to the public. However, this disclosure need not include any material exempt from public disclosure under Government Code Sections 6253.5, 6254, or 6254.7.

(b) Records which are subject to disclosure under Subdivision (a) and which are intended for distribution to the body prior to commencement of a public meeting shall be made available for public inspection and copying upon request prior to commencement of such meeting, whether or not actually distributing to or received by the body at the time of the request.

(c) Records which are subject to disclosure under Subdivision (a) and which are distributed during a public meeting but prior to commencement of their discussion shall be made available for public inspection prior to commencement of, and during, their discussion.

(d) Records which are subject to disclosure under Subdivision (a) and which are distributed during their discussion at a public meeting shall be made available for public inspection immediately or as soon thereafter as is practicable.

(e) A policy body may charge a duplication fee of one cent per page for a copy of a public record prepared for consideration at a public meeting, unless a special fee has been established pursuant to the procedure set forth in Section 67.29(d). Neither this Section nor the California Public Records Act (Government Code Sections 6250 et seq.) shall be construed to limit or delay the public's right to inspect any record required to be disclosed by that act, whether or not distributed to a policy body.

SEC. 67.10. CLOSED SESSIONS: PUBLIC FACILITIES AND EMPLOYEES. A policy body may hold closed session:

(a) With the Attorney General, District Attorney, Sheriff, or Chief of Police, or their respective deputies, on matters posing a threat to the security of public buildings or a threat to the public's right of access to public services or public facilities;

(b) To consider the appointment, employment, evaluation of performance, or dismissal of a City employee, if the policy body has the authority to appoint, employ, or dismiss the employee, or to hear complaints or charges brought against the employee by another person or employee unless the employee complained of requests a public hearing. The body may exclude from any such public meeting, and shall exclude from any such closed meeting, during the comments of a complainant, any or all other complainants in the matter. The term "employee" shall not include any elected official, member of a policy body or applicant for such a position, or person providing services to the City as an independent contractor or the employee thereof, including but not limited to independent attorneys or law firms providing legal services to the City for a fee rather than a salary;

(c) Notwithstanding Subsection (b), an Executive Compensation Committee established under Memorandum of Understanding with the Municipal Executives Association may meet in closed session when evaluating the performance of an individual officer or employee subject to that Memorandum of Understanding or when establishing performance goals for such an officer or employee where the setting of such goals requires discussion of that individual's performance.

(d) This section shall not apply to boards and commissions whose closed sessions are governed by Charter Section 3.500(f), except for the Board of Supervisors, unless and until a Charter amendment is adopted repealing the provisions of that section relating to closed sessions.

SEC. 67.11. CLOSED SESSIONS: PENDING LITIGATION. (a) A policy body, based on advice of its legal counsel, and on a motion and vote in open session to assert the attorney-client privilege, may hold a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the City in that litigation.

(b) Litigation shall be considered pending when any of the following circumstances exist:

(1) An adjudicatory proceeding before a court, administrative body exercising its adjudicatory authority, hearing officer or arbitrator, to which the City is a party, has been initiated formally,

(2) A point has been reached where, in the opinion of the policy body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the City, or the body is meeting only to decide whether a closed session is authorized pursuant to that advice or, based on those facts and circumstances, the body has decided to initiate or is deciding whether to initiate litigation.

(c) A closed session may not be held under this section to consider the qualifications or engagement of an independent contract attorney or law firm, for litigation services or otherwise.

(d) Prior to holding a closed session pursuant to this section, the policy body shall disclose the justification for its closure either by entries in the appropriate categories on the agenda or, in the case of an item added to the agenda based on a finding of necessity and urgency, by an oral announcement specifying the same information.

(e) This section shall not apply to boards and commissions whose closed sessions are governed by Charter Section 3.550(f), except for the Board of Supervisors, unless and until a charter amendment is adopted repealing the provisions of that section relating to closed sessions.

SEC. 67.12. CLOSED SESSIONS: EMPLOYEE SALARIES AND BENEFITS. (a) A policy body with authority over matters within the scope of collective bargaining or meeting and conferring with public employee organizations may hold closed sessions with the City's designated representatives regarding such matters. Closed sessions shall be for the purpose of reviewing the City's position and instructing its designated representatives and may take place solely prior to and during active consultations and discussions between the City's designated representatives and the representatives of employee organizations or the unrepresented employees. A policy body shall not discuss compensation or other contractual matters in closed session with one or more employees directly interested in the outcome of the negotiations.

(b) In addition to the closed sessions authorized by Subdivision (a), a policy body subject to Government Code Section 3501 may hold closed sessions with its designated representatives on mandatory subjects within the scope of representation of its represented employees, as determined pursuant to Section 3504.

SEC. 67.13. STATEMENT OF REASONS FOR CLOSED SESSIONS. Prior to any closed session, a policy body shall state the general reason or reasons for the closed session, and may cite the statutory authority, including the specific section and subdivision, or other legal authority under which the session is being held. In the closed session, the policy body may consider only those matters covered in its statement. In the case of regular and special meetings, the statement shall be made in the form of the agenda disclosures and specifications required by Section 67.8 of this article. In the case of adjourned and continued meetings, the statement shall be made with the same disclosures and specifications required by Section 67.8 of this article, as part of the notice provided for the meeting. In the case of an item added to the agenda as a matter of urgent necessity, the statement shall be made prior to the determination of urgency and with the same disclosures and specifications as if the item had been included in the agenda pursuant to Section 67.8 of this article. Nothing in this section shall require or authorize a disclosure of information prohibited by state or federal law.

SEC. 67.14. DISCLOSURE OF CLOSED SESSION DISCUSSIONS AND ACTIONS. (a) After every closed session, a policy body may in its discretion and in the public interest, disclose to the public any portion of its discussion which is not confidential under federal or state law, the Charter, or nonwaivable privilege. The body shall, by motion and vote in open session, elect either to disclose no information or to disclose the information which a majority deems to be in the public interest. The disclosure shall be made through the presiding officer of the body or such other person, present in the closed session, whom he or she designates to convey the information.

(b) A policy body shall publicly report any action taken in closed session and the vote or abstention of every member present thereon, as follows:

(1) **Real Property Negotiations:** Approval given to the body's negotiator concerning real estate negotiations pursuant to Government Code Section 54956.8 shall be reported as soon as the agreement is final. If its own approval renders the agreement final, the body shall report that approval, the substance of the agreement and the vote thereon in open session immediately. If final approval rests with the other party to the negotiations, the body shall disclose the fact of that approval, the substance of the agreement and the body's vote or votes thereon upon inquiry by any person, as soon as the other party or its agent has informed the body of its approval. If notwithstanding the final approval there are conditions precedent to the final consummation of the transaction, or there are multiple contiguous or closely located properties that are being considered for acquisition, the document referred to in Subdivision (b) of this section need not be disclosed until the condition has been satisfied or the agreement has been reached with respect to all the properties, or both;

(2) **Litigation:** Direction or approval given to the body's legal counsel to prosecute, defend or seek or refrain from seeking appellate review or relief, or to otherwise enter as a party, intervenor or amicus curiae in any form of litigation as the result of a consultation under

Government Code Section 54956.9 shall be reported in open session as soon as given, or at the first meeting after an adverse party has been served in the matter if immediate disclosure of the City's intentions would be contrary to the public interest. The report shall identify the adverse party or parties, any co-parties with the City, any existing claim or order to be defended against or any factual circumstances or contractual dispute giving rise to the City's complaint, petition or other litigation initiative. This section shall not apply to boards and commissions whose closed sessions are governed by Charter Section 3.500(f), except for the Board of Supervisors, unless and until a charter amendment is adopted repealing the provisions of that section relating to closed sessions;

(3) **Settlement:** A policy body shall neither solicit nor agree to any term in a settlement which would preclude the release, upon request by the public, of the text of the settlement itself and any related documentation communicated to or received from the adverse party or parties. Where the disclosure of documents in a litigation matter that has been settled could affect litigation on a closely related case, the documents required to be disclosed by Subdivision (b) of this section need not be disclosed until the closely related case is settled or otherwise finally concluded. This section shall not be applicable to the Airports Commission, the Port Commission or the Public Utilities Commission;

(4) **Employee Actions:** Action taken to appoint, employ, dismiss, transfer or accept the resignation of a public employee in closed session pursuant to Government Code Section 54957 shall be reported immediately in a manner that names the employee, the action taken and position affected and, in the case of dismissal for a violation of law or of the policy of the City, the reason for dismissal. "Dismissal" within the meaning of this ordinance includes any termination of employment at the will of the employer rather than of the employee, however characterized. The proposed terms of any separation agreement shall be immediately disclosed as soon as presented to the body, and its final terms shall be immediately disclose upon approval by the body. Except for information required to be disclosed by the Ralph M. Brown Act, this section shall not apply to boards and commissions whose closed sessions are governed by Charter Section 3.500(f), except for the Board of Supervisors, unless and until a charter amendment is adopted repealing the provisions of that section relating to closed sessions.

(c) Reports required to be made immediately may be made orally or in writing, but shall be supported by copies of any contracts, settlement agreements, or other documents related to the transaction that were finally approved or adopted in the closed session and that embody the information required to be disclosed by immediate report, provided to any person who requested such copies in a written request submitted within 24 hours of the posting of the agenda, or who has made a standing request for all such documentation as part of a request for notice of meetings pursuant to Government Code Sections 54954.1 or 54956.

(d) A written summary of the information required to be immediately reported pursuant to this Section, or documents embodying that information, shall be posted by the close of business on the next business day following the meeting, in the place where the meeting agendas of the body are posted.

SEC. 67.15. BARRIERS TO ATTENDANCE PROHIBITED. (a) No policy body shall conduct any meeting, conference or other function in any facility that excludes persons on the basis of actual or presumed class identity or characteristics, or which is inaccessible to persons with physical disabilities, or where members of the public may not be present without making a payment or purchase. Whenever the Board of Supervisors, or a board or commission enumerated in the Charter, or a permanent subquorum committee of the governing board or commission anticipates that the number of persons attending the meeting will exceed the legal capacity of the meeting room, any public address system used to amplify sound in the meeting room shall be extended by supplementary speakers to permit the overflow audience to listen to the proceedings in an adjacent room or passageway, unless such supplementary speakers would disrupt the operation of a City office.

(b) Each board and commission enumerated in the Charter shall provide sign

language interpreters or notetakers at each regular meeting, providing that a request for such services is communicated to the secretary to the board or commission at least 48 hours before the meeting, except for Monday meetings, for which the deadline shall be 4:00 p.m. of the last business day of the preceding week.

(c) Each board and commission enumerated in the Charter shall ensure that accessible seating for persons with disabilities, including those using wheelchairs, is made available for each regular and special meeting.

(d) Each board and commission enumerated in the Charter shall include on the agenda for each general and special meeting the following statement: "In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City accommodate these individuals."

(e) The Board of Supervisors shall seek to provide translators at each regular meeting of the full Board of Supervisors and Board Committees for each language requested, where the translation is necessary to enable San Francisco residents with limited English proficiency to participate in the proceedings. However, it is projected that the use of translation services will most likely be required at the Board of Supervisors and Board Committee meetings held in the community where community members have limited English proficiency. The request for translation services shall be communicated to the Clerk of the Board of Supervisors at least 48 hours before the meeting. When the Board or Committee meets on a Monday or a Tuesday, the request must be made by noon of the last business day of the preceding week. The Clerk of the Board of Supervisors shall solicit volunteers from the ranks of City employees and/or from the community to serve as translators. If volunteers are not available the Clerk of the Board of Supervisors may solicit translators from nonprofit agencies, which may be compensated. If these options do not provide the necessary translation services, the Clerk may employ professional translators. The unavailability of a translator shall not affect the ability of the Board of Supervisors or its committees to deliberate or vote upon any matter presented to them. In any calendar year in which the costs to the City for providing translator services under Subsection (e) exceeds $20,000, the Board of Supervisors shall, as soon as possible thereafter, review the provisions of Subsection (e). The provisions of Subsection (e) shall expire on December 31, 1998.

SEC. 67.16. TAPE RECORDING, FILMING AND STILL PHOTOGRAPHY. (a) Any person attending an open and public meeting of a policy body shall have the right to record the proceedings with an audio or video tape recorder or a still or motion picture camera, or to broadcast the proceedings, in the absence of a reasonable finding of the policy body that the recording or broadcast cannot continue without such noise, illumination or obstruction of view as to constitute a persistent disruption of the proceedings.

(b) Each board and commission enumerated in the Charter shall tape record each regular and special meeting. Each such tape recording, and any audio or video tape recording of a meeting of any other policy body made at the direction of the policy body shall be a public record subject to inspection pursuant to the California Public Records Act (Government Code Section 6250 et seq.), and shall not be erased or destroyed for at least seven calendar days, provided that if during that seven-day period a written request for inspection or copying of that record is made, the tape shall not be destroyed or erased until the requested inspection or copying has been accomplished. Inspection of any such video or tape recording shall be provided without charge on a tape recorder made available by the City.

SEC. 67.17. PUBLIC TESTIMONY AT REGULAR AND CERTAIN SPECIAL MEETINGS. (a) Every agenda for regular meetings shall provide an opportunity for members of the public to directly address a policy body on items of interest to the public that are within policy body's subject matter jurisdiction, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by Section 67.7(e) of this

Article. However, in the case of a meeting of the Board of Supervisors, the agenda need not provide an opportunity for members of the public to address the Board on any item that has already been considered by a committee, composed exclusively of members of the Board, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the Board.

(b) Every agenda for special meetings at which action is proposed to be taken on an item shall provide an opportunity for each member of the public to directly address the body concerning that item prior to action thereupon.

(c) A policy body may adopt reasonable regulations to ensure that the intent of Subdivisions (a) and (b) are carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker. Each policy body shall adopt a rule providing that each person wishing to speak on an item before the body at a regular or special meeting shall be permitted to be heard once for up to three minutes.

(d) A policy body shall not abridge or prohibit public criticism of the policy, procedures, programs or services of the City, or of any other aspect of its proposals or activities, or of the acts or omissions of the body, on the basis that the performance of one or more public employees is implicated, or on any basis other than reasonable time constraints adopted in regulations pursuant to Subdivision (c) of this Section.

SEC. 67.18. MINUTES. The Clerk of the Board of Supervisors and the clerk of each board and commission enumerated in the Charter shall record the minutes for each regular and special meeting of the board or commission. The minutes shall state the time the meeting was called to order, the names of the members attending the meeting, the roll call vote on each matter considered at the meeting, the time the board or commission began and ended any closed session, a list of those members of the public who spoke on each matter if the speakers identified themselves, whether such speakers supported or opposed the matter and the time the meeting was adjourned. The draft minutes of each meeting shall be available for inspection and copying upon request no later than 10 working days after the meeting. The officially adopted minutes shall be available for inspection and copying upon request no later than 10 working days after the meeting at which the minutes are adopted. Upon request, minutes required to be produced by this Section shall be made available in Braille or increased type size.

SEC. 67.19. PUBLIC COMMENT BY MEMBERS OF POLICY BODIES. Every member of a policy body retains the full constitutional rights of a citizen to comment publicly on the wisdom or propriety of government actions, including those of the policy body of which he or she is a member. Policy bodies shall not sanction, reprove or deprive members of their rights as elected or appointed officials for expressing their judgments or opinions, including those which deal with the perceived inconsistency of nonpublic discussions, communications or actions with the requirements of State or federal law or of this ordinance. The release of specific factual information made confidential by State or federal law including, but not limited to, the privilege for confidential attorney-client communications, may be the basis for a request for injunctive or declaratory relief, of a complaint to the Mayor seeking an accusation of misconduct, or both.

ARTICLE III

PUBLIC INFORMATION

SEC. 67.20. DEFINITIONS. Whenever in this Article the following words or phrases are used, they shall mean:

(a) "Department" shall mean a department of the City and County of San Francisco.

(b) "Public information" shall mean the content of "public records" as defined in the California Public Records Act (Government Code Section 6252), whether provided in documentary form or in an oral communication. "Public information" shall not include "computer software" developed by the City and County of San Francisco as defined in the California Public Records Act (Government Code Section 6254.9).

SEC. 67.21. RELEASE OF DOCUMENTARY PUBLIC INFORMATION. (a) Release of documentary public information, whether for inspection of the original or by providing a copy, shall be governed by the California Public Records Act (Government Code Section 6250 et seq.) in any particulars not addressed by this Article.

(b) Inspection and copying of documentary public information stored in electronic form shall be made available to the person requesting the information in any form requested which is available to the department, its officers or employees, including disk, tape, printout or monitor at a charge no greater than the cost of the media on which it is duplicated, plus the direct costs of equipment, supplies and labor costs associated with duplicating the electronic file which is requested. Inspection of documentary public information on a computer monitor need not be allowed where the information sought is intertwined with information not subject to disclosure under the California Public Records Act and this ordinance. Nothing in this Section shall require a department to program or reprogram a computer to respond to a request for information or to release information where the release of that information would violate a licensing agreement or copyright law.

(c) It is the policy of the City and County of San Francisco to utilize computer technology in order to reduce the cost of public records management, including the costs of collecting, maintaining, and disclosing records subject to disclosure to members of the public under this Section. To the extent that it is technologically and economically feasible, departments that use computer systems to collect and store public records shall program and design these systems to ensure convenient, efficient, and economical public access to records.

(d) Departments purchasing new computer systems shall attempt to reach the following goals as a means to achieve lower costs to the public in connection with the public disclosure of records:

(1) Implementing a computer system in which exempt information is segregated or filed separately from otherwise disclosable information;

(2) Implementing a system that permits reproduction of electronic copies of records in a format that is generally recognized as an industry standard format;

(3) Implementing a system that permits making records available through the largest nonprofit, nonproprietary public computer network, consistent with the requirement for security of information.

SEC. 67.22. RELEASE OF ORAL PUBLIC INFORMATION. Release of oral public information shall be accomplished as follows:

(a) Every department head shall designate a person or persons knowledgeable about the affairs of the department, to provide information, including oral information, to the public about the department's operations, plans, policies and positions. The department head may designate himself or herself for this assignment, but in any event shall arrange that an alternate be available for this function during the absence of the person assigned primary responsibility. If a department has multiple bureaus or divisions, the department may designate a person or persons

for each bureau or division to provide this information.

(b) The role of the person or persons so designated shall be to provide information on as timely and responsive a basis as possible to those members of the public who are not requesting information from a specific person. This Section shall not be interpreted to curtail existing informal contacts between employees and members of the public when these contacts are occasional, acceptable to the employee and the department, not disruptive of his or her operational duties and confined to accurate information not confidential by law.

(c) No employee shall be required to respond to an inquiry or inquiries from an individual if it would take the employee more than 15 minutes to obtain the information responsive to the inquiry or inquiries.

(d) Public employees shall not be discouraged from or disciplined for the expression of their personal opinions on any matter of public concern while not on duty, so long as the opinion (1) is not represented as that of the department and does not misrepresent the department position; and (2) does not disrupt coworker relations, impair discipline or control by superiors, erode a close working relationship premised on personal loyalty and confidentiality, interfere with the employee's performance of his or her duties or obstruct the routine operation of the office in a manner that outweighs the employee's interests in expressing that opinion. In adopting this subdivision, the Board of Supervisors intends merely to restate and affirm court decisions recognizing the First Amendment rights enjoyed by public employees. Nothing in this Section shall be construed to provide rights to City employees beyond those recognized by courts, now or in the future, under the First Amendment, or to create any new private cause of action or defense to disciplinary action.

SEC. 67.23. PUBLIC REVIEW FILE—POLICY BODY COMMUNICATIONS. (a) The Clerk of the Board of Supervisors and the clerk of each board and commission enumerated in the Charter shall maintain a file, accessible to any person during normal office hours, containing a copy of any letter, memorandum or other communication which the clerk has distributed to or received from a quorum of the policy body concerning a matter calendared by the body within the previous 30 days or likely to be calendared within the next 30 days, irrespective of subject matter, origin or recipient, except commercial solicitations, periodical publications or communications exempt from disclosure under the California Public Records Act (Government Code Section 6250 et seq.) and not deemed disclosable under Section 67.24 of this Article.

(b) Communications, as described in Subsection (a), sent or received in the last three business days shall be maintained in chronological order in the office of the department head or at a place nearby, clearly designated to the public. After documents have been on file for two full days, they may be removed, and, in the discretion of the board or commission, placed in a monthly chronological file.

(c) Multiple-page reports, studies or analyses which are accompanied by a letter or memorandum of transmittal need not be included in the file so long as the letter or memorandum of transmittal is included.

SEC. 67.24. NONEXEMPT PUBLIC INFORMATION. Notwithstanding the department's legal discretion to withhold certain information under the California Public Records Act, the following policies shall govern specific types of documents and information:

(a) **Drafts and Memoranda.**

(1) Except as provided in Subparagraph (2), no preliminary draft or department memorandum shall be exempt from disclosure under Government Code Section 6254, Subdivision (a) if it is normally kept on file. If it is not normally kept on file and would otherwise be disposed of, its factual content is not exempt under Subdivision (a). Only the recommendation of the author may, in such circumstances, be withheld as exempt;

(2) Draft versions of an agreement being negotiated by representatives of the City with some other party need not be disclosed immediately upon creation but must be preserved and made available for public review for 10 days prior to the presentation of the agreement for

approval by a policy body, unless the body finds that and articulates how the public interest would be harmed by compliance with this 10-day rule, provided that policy body as used in this subdivision does not include committees. In the case of negotiations for a contract, lease or other business agreement in which an agency of the City is offering to provide facilities or services in direct competition with other public or private entities that are not required by law to make their competing proposals public, the policy body may postpone public access to the final draft agreement until it is presented to it for approval. Earlier versions and/or drafts of agreements shall not be subject to disclosure if the public interest in withholding such records clearly outweighs the public interest in disclosure as provided by California Government Code Section 6254(a).

(b) **Litigation Material.**

(1) No pre-litigation claim against the City, or any other record previously received or created by a department in the ordinary course of business, shall be exempt from disclosure under Government Code Section 6254, Subdivision (b);

(2) Unless otherwise privileged under California law, when litigation is finally adjudicated or otherwise settled, records of all communications between the department and the adverse party shall be subject to disclosure, including the text and terms of any settlement.

(c) **Personnel Information.** None of the following shall be exempt from disclosure under Government Code Section 6254, Subdivision (c):

(1) The job pool characteristics and employment and education histories of all successful job applicants, including at a minimum the following information as to each successful job applicant:

(i) Sex, age and ethnic group,

(ii) Years of graduate and undergraduate study, degrees(s) and major or discipline,

(iii) Years of employment in the private and/or public sector,

(iv) Whether currently employed in the same position for another public agency,

(v) Other nonidentifying particulars as to experience, credentials, aptitudes, training or education entered in or attached to a standard employment application form used for the position in question.

(2) The professional biography or curriculum vitae of any employee, provided that the home address, home telephone number, social security number, age, and marital status of the employee shall be redacted;

(3) The job description of every employment classification;

(4) The exact gross salary and City-paid benefits available to every employee;

(5) Any memorandum of understanding between the City or department and a recognized employee organization.

(d) **Law Enforcement Information.** No records pertaining to any investigation, arrest or other law enforcement activity shall be exempt from disclosure under Government Code Section 6254, Subdivision (f) beyond the point where the prospect of any enforcement action has been terminated by either a court or a prosecutor. When such a point has been reached, related records of law enforcement activity shall be accessible, except that individual items of information in the following categories may be withheld: the names of witnesses (whose distinct identities may be indicated by substituting an alphabetical letter for each individual interviewed); personal and otherwise private information unrelated to the reasons for which the law enforcement action was commenced or terminated; the identity of a confidential source; secret investigative techniques or procedures; or information whose disclosure would endanger law enforcement personnel. The subdivision shall not exempt from disclosure any portion of any record of a concluded inspection or enforcement action by an officer or department responsible for regulatory protection of the public health, safety or welfare.

(e) **Contracts, Bids and Proposals.** (1) Contracts, contractors' bids, responses to requests for proposals and all other records of communications between the department and persons or firms seeking contracts shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a

contract or other benefit until and unless that person or organization is awarded the contract or benefit. All bidders and contractors shall be advised that information provided which is covered by this subdivision will be made available to the public upon request.

(2) Notwithstanding the provisions of this subdivision or any other provision of this ordinance, the Director of Public Health may withhold from disclosure proposed and final rates of payment for managed health care contracts if the Director determines that public disclosure would adversely affect the ability of the City to engage in effective negotiations for managed health care contracts. The authority to withhold this information applies only to contracts pursuant to which the City (through the Department of Public Health) either pays for health care services or receives compensation for providing such services, including mental health and substance abuse services, to covered beneficiaries through a pre-arranged rate of payment. This provision also applies to rates for managed health care contracts for the University of California, San Francisco, if the contract involves beneficiaries who receive services provided jointly by the City and university. This provision shall not authorize the Director to withhold rate information from disclosure for more than three years.

(f) **Budgets and Other Financial Information.** Budgets, whether tentative, proposed or adopted, for the City or any of its departments, programs, projects or other categories, and all bills, claims, invoices, vouchers or other records of payment obligations as well as records of actual disbursements showing the amount paid, the payee and the purpose for which payment is made, other than payments for social or other services whose records are confidential by law, shall not be exempt from disclosure under any circumstances.

SEC. 67.25. IMMEDIACY OF RESPONSE. (a) Notwithstanding the 10-day period for response to a request permitted in Government Code Section 6256, a written request for information described in any category of nonexempt public information in Section 67.24 of this Article which shall be satisfied no later than the close of business on the day following the day of the request. This deadline shall apply only if the words "Immediate Disclosure Request" are written across the top of the request and the envelope in which the request is transmitted. These deadlines are appropriate for more extensive or demanding requests, but shall not be used to delay fulfilling a simple, routine or otherwise readily answerable request.

(b) If the voluminous nature of the information requested, its location in a remote storage facility or the need to consult with another interested department warrants an extension of 10 days as provided in Government Code Section 6456.1, the requester shall be notified as required by the close of business on the business day following the request.

(c) The person seeking the information need not state his or her reason for making the request or the use to which the information will be put, and shall not be routinely asked to make such a disclosure. Where a record being requested contains information most of which is exempt from disclosure under the California Public Records Act and this Article, however, the City Attorney may inform the requester of the nature and extent of the nonexempt information and inquire as to the requester's purpose for seeking it, in order to suggest alternative sources for the information which may involve less redaction or to otherwise prepare a response to the request.

SEC. 67.26. MINIMUM WITHHOLDING. No record shall be withheld from disclosure in its entirety unless all information contained in it is exempt from disclosure under express provisions of the California Public Records Act or of some other statute. Information that is exempt from disclosure shall be masked, deleted or otherwise segregated in order that the nonexempt portion of a requested record may be released, and keyed by footnote or other clear reference to the appropriate justification for withholding required by Section 67.28 of this Article. This work shall be done personally by the attorney or other staff member conducting the exemption review. If that employee's work in redaction and footnoting exceeds one hour, the requester may be required to pay that extra increment of time at the pro rata hourly salary rate of the employee. Staff time used to locate or collect records for review or copying shall not be included as chargeable. (Added by Ord. 265-93, App. 8/18/93)

SEC. 67.27. JUSTIFICATION OF WITHHOLDING. Any withholding of information shall be justified, in writing, as follows:

(a) A withholding under a permissive exemption in the California Public Records Act or elsewhere shall cite that authority and explain in factual terms how the public interest would be harmed by disclosure.

(b) A withholding on the basis that disclosure is prohibited by law shall cite the statutory authority in the Public Records Act or elsewhere.

(c) A withholding on the basis that disclosure would incur civil or criminal liability shall cite any statutory or case law, or any other public agency's litigation experience, supporting that position.

SEC. 67.28. FEES FOR DUPLICATION. (a) No fee shall be charged for making public records available for review.

(b) For documents routinely produced in multiple copies for distribution, e.g., meeting agendas and related materials, unless a special fee has been established pursuant to Subdivision (d) of this Section, a fee not to exceed one cent per page may be charged, plus any postage costs.

(c) For documents assembled and copied to the order of the requester, unless a special fee has been established pursuant to Subdivision (d) of this Section, a fee not to exceed 10 cents per page may be charged, plus any postage.

(d) A department may establish and charge a higher fee than the one cent presumptive fee in Subdivision (b) and the 10 cent presumptive fee in Subdivision (c) if it prepares and posts an itemized cost analysis establishing that its cost per page impression exceeds 10 cents or one cent, as the case may be. The cost per page impression shall include the following costs: one sheet of paper; one duplication cycle of the copying machine in terms of toner and other specifically identified operation or maintenance factors, excluding electrical power; and one unit of operator labor calculated as the average hourly pay, excluding benefits, of the employee classification normally assigned to copy records, divided by 60, divided by the average number of copies per minute produced by the machines used in the department. Any such cost analysis shall identify the employee classification used for the labor component and the manufacturer, model, vendor and maintenance contractor, if any, of the copying machine or machines referred to.

SEC. 67.29. INDEX TO RECORDS. Each department may cooperate with any voluntary effort by an interested and competent individual or organization to compile a master index to the types of records it maintains, including those it creates and those it receives in the ordinary course of business. The index shall be for the use of City officials, staff and the general public, and shall be organized to permit a general understanding of the types of information maintained, by which officials and departments, for which purposes and for what periods of retention, and under what manner of organization for accessing, e.g., by reference to a name, a date, a proceeding or project, or some other referencing system. The index need not be in such detail as to identify files or records concerning a specific person, transaction or other event, but shall clearly indicate where and how records of that type are kept. Any such master index shall be reviewed by appropriate staff for accuracy and presented for formal adoption to the administrative official or policy body responsible for the indexed records. Any changes in the department's practices or procedures that would affect the accuracy of the index shall thereafter be reported by the responsible staff to the board, commission, or elective officer, as the case may be, as the basis for a corresponding revision of the index.

ARTICLE IV

POLICY IMPLEMENTATION

SEC. 67.30. THE SUNSHINE ORDINANCE TASK FORCE. (a) There is hereby established a task force to be known as the Sunshine Ordinance Task Force consisting of thirteen voting members appointed by the Board of Supervisors. Two members shall be appointed from individuals whose names have been submitted by the local chapter of the Society of Professional Journalists, one of whom shall be an attorney and one of whom shall be a local journalist. One member shall be appointed from the press or electronic media who has an interest in the issues of citizen access and participation in local government. One member shall be appointed from individuals whose names have been submitted by the local chapter of the League of Women Voters. One member shall be a journalist from the minority press or electronic media. Six members shall be members of the public who have demonstrated interest in or have experience in the issues of citizen access and participation in local government. Two members shall be members of the public experienced in consumer advocacy. At all times the Task Force shall include at least one member who shall be a member of the public who is disabled and who has demonstrated interest in citizen access and participation in local government. The Mayor or his or her designee, and the Clerk of the Board of Supervisors and his or her designee, shall serve as nonvoting members of the Task Force. The City Attorney shall serve as legal advisor to the Task Force.

(b) The term of each appointive member shall be two years unless earlier removed by the Board of Supervisors. In the event of such removal or in the event a vacancy otherwise occurs during the term of office of any appointive member, a successor shall be appointed for the unexpired term of the office vacated in a manner similar to that described herein for the initial members. The Task Force shall elect a chair from among its appointive members. The term of office as chair shall be one year. Members of the Task Force shall serve without compensation.

(c) The Task Force shall advise the Board of Supervisors and provide information to other City departments on appropriate ways in which to implement this Chapter. The Task Force shall develop appropriate goals to ensure practical and timely implementation of this Chapter. The Task Force shall propose to the Board of Supervisors amendments to this Chapter. The Task Force shall report to the Board of Supervisors at least once annually on any practical or policy problems encountered in the administration of this Chapter.

(d) In addition to the powers specified above, the Task Force shall possess such powers as the Board of Supervisors may confer upon it by ordinance.

SEC. 67.31. RESPONSIBILITY FOR ADMINISTRATION. The Mayor shall administer and coordinate the implementation of the provisions of this Chapter for departments under his or her control. The Mayor shall administer and coordinate the implementation of the provisions of this Chapter for departments under the control of boards and commissions appointed by the Mayor. Elected officers shall administer and coordinate the implementation of the provisions of this Chapter for departments under their respective control. The Mayor shall administer the Task Force On The Implementation Of The San Francisco Sunshine Ordinance.

SEC. 67.32. SEVERABILITY. The provisions of this Chapter are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this Chapter, or the invalidity of the application thereof to any person or circumstances, shall not affect the validity of the remainder of this Chapter, or the validity of its application to other persons or circumstances.

CITIZENS' RIGHT-TO-KNOW ACT OF 1998

(The San Francisco Administrative Code Chapter 79)

PRE-APPROVAL NOTICE FOR CERTAIN CITY PROJECTS

SEC. 79.1. Scope. No city officer, department, board or commission shall Approve a City Project unless a sign has been posted on the property on which the City project will be located at least fifteen (15) days prior to such Approval. The City officer, department, board or commission responsible for Approving a City Project shall post the sign required by this Chapter. The notice required by this Chapter shall be in addition to the notice requirements provided elsewhere in the San Francisco Municipal Code.

SEC. 79.2. Definitions. For purposes of the Chapter, the following definition shall apply:

(a) "Approve" or "Approval" shall mean an action by a City officer, department, board or commission sponsoring a City Project in which a final commitment is made by such sponsoring officer, department, board or commission to fund or undertake a City Project. Such Approval may include, but is not limited to, a decision to award a grant for a City Project at a specific site, or to purchase or acquire an interest in particular real estate to locate a City Project. Approval shall not include a decision to undertake a preliminary study of one or more potential sites for a City Project. Approval shall refer only to the actions of the sponsoring officer, department, board or commission.

(b) "City Project" shall mean the following:

(i) A project that:

(A) Involves new construction, a change in use, or a significant expansion of an existing use at a specific location, and

(B) Houses City operations at, or provides services or assistance from, such specified location; and

(C) Is undertaken directly by the City or any of its officers, departments, boards or commissions; or by an agent, contractor, service provider, or other person that receives $50,000 or more in City Funding for the construction and related work associated with the project and/or operating expenses for the project at such fixed location.

(ii) "City Project" shall include, but is not limited to, administrative offices, housing and other residential projects, and programs that provide services or assistance for the benefit of all or some members of the public from a fixed location.

(c) "City Funding" shall mean funding provided directly by the City or administered by the City through the use of federal, state or other funding sources.

(d) " Significant Expansion of Existing Use" shall mean the lesser of an addition amounting to 50% of gross floor area, or 1500 square feet or more of gross floor area, as determined by the Zoning Administrator in accordance with Section 102.9 of the San Francisco Planning Code.

SEC. 79.3. Exemptions. The following City Projects shall be exempt from this section:

(a) A shelter for battered persons;

(b) A State-authorized, certified, or licensed family care home, foster home, or group home serving six or fewer mentally disordered or otherwise disabled persons or dependent and neglected children in accordance with California Welfare and Institutions Code Section 5116 or as set forth in Section 209.3 (b) of the Planning Code.

(c) A City Project undertaken solely to achieve compliance with the disabled access requirements of the Americans With Disabilities Act or the California building Code;

(d) Projects in the public right-of-way;

(e) A Project at a fixed location that is outside of the City limits of the City and County of San Francisco.

SEC. 79.4. Change in City Project. In the event that a City Project is approved pursuant to the provisions of this Act, that Approval shall be limited to the specific site and the specific use granted in the Approval. Any changes to the City Project which involve a different site, or a different use, or a redirection of the funding for the project in any way, shall be subject to the provisions of this Act and shall require a new pre-Approval notice procedure.

SEC. 79.5. Signposting Requirements. Those City Projects subject to this Chapter shall comply with the following signposting requirements:

(a) Posting. At least fifteen (15) days prior to consideration of Approval of a City Project, the City officer, department, board or commission considering such Approval shall post a sign on the property on which the City Project is proposed. Such a sign shall be posted through the date of Approval or disapproval of the City Project by the sponsoring City entity.

(b) Location of Sign. The sign shall meet the following requirements:

(1) The sign shall be posted inside of windows that are no more than six feet (6') back from the property line, where the windows are of sufficient size to accommodate the sign. The bottom of the sign shall be no lower than four feet (4') above grade and the top of the sign shall be no higher than eight feet six inches (8'6") above grade. The sign shall not be obstructed by awnings, landscaping, or their impediment and shall be clearly visible from a public street, alley, or sidewalk.

(2) In the absence of windows meeting the above criteria where the building façade is no more than nine feet (9') back from the property line, the sign shall be affixed to the building, with the bottom of the sign being at least five feet (5') above grade and the top of the sign being no more than seven feet six inches (7' 6") above grade. The sign shall be protected from the weather as necessary. The sign shall not be obstructed by awnings, landscaping, or other impediment, and shall be clearly visible form a public street, alley, or sidewalk.

(3) Where the structure is more than nine feet (9') from the property line the sign shall be posted at the property line with the top of the sign no more than six feet (6') and not less than five feet (5') above grade. Such signs shall be attached to standards and shall be protected from the weather as necessary.

(4) If no structures occupy the property, signs shall be posted sufficient to provide adequate notice to the public. The Director of Administrative Services shall be responsible for determining the number of signs to be posted on such property.

(c) Contents and Size of Signs. The sign shall be at least thirty inches (30") by thirty inches (30"). The sign shall be entitled NOTICE OF INTENT TO APPROVE A CITY PROJECT AT THIS LOCATION. The lettering of the title shall be at least 1-1/4-inch capital letters. All other letters shall be at least ¾-inch uppercase and ½ inch lowercase. The sign shall provide an identification of: the officer, department, board or commission that will determine whether to Approve the City Project; the date upon which Approval will be considered; and the procedure for obtaining additional information or submitting comments, which shall include, but not be limited to, a local contact person and telephone number where that person may be reached.

(d) Production of Signs. The Director of Administration Services shall develop a standardized sign that may be used to justify this Section. The Director of Administrative Services may charge a fee sufficient to cover the costs of producing such signs.

Sec. 79.6. Alternative Notice Provisions. In lieu of the signposting requirements in Section 79.5, a City officer, department, board of commission shall send mailed notice to the owner of each property within 300 feet of the lot line of the property on which the City Project is proposed. Notice shall be sent to the property owners reflected on the latest Citywide Assessor roll and neighborhood associations and organizations listed with Planning Department where the site would be located within the indicated geographic area of interest of said association or organization. In addition, to the extent practicable, mailed notice shall be sent to the occupants of each property with in 300 feet of the lot line of the property on which the City Project is proposed. The mailed notice shall include, at a minimum, all of the information required in Section 79.5 (c). Mailed notice shall be sent at least 20 days prior to consideration of Approval of a City Project.

Sec. 79.7 Permission to Enter Property Every person who has possession of property that is the subject of the pre-Approval signposting process required by this Chapter shall permit entry at a reasonable time to allow the posting of the sign required herein. No person shall remove or cause the removal of such sign during the period of time that posting is required herein without reasonable cause to believe that such removal is necessary to protect persons or property from injury.

Sec. 79.8. Rights Affected. The requirements of this chapter are not intended to give any right to any person to challenge in any administrative or judicial proceeding any action if such person would not otherwise have the legal right to do so. A party aggrieved by a decision to Approve or disapprove a City Project may utilize any existing avenue(s) of appeal.

U.C. BERKELEY LIBRARIES
C124921227

ID: 5546999
186 Pages